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A VIEW
OF THE
Legal Institutions,
Honorary Hereditary Offices,
AND
Feudal Baronies,
ESTABLISHED IN
IRELAND



DURING THE REIGN OF HENRY THE SECOND.

DEDUCED FROM COURT ROLLS, INQUISITIONS, AND OTHER ORIGINAL RECORDS.

BY WILLIAM LYNCH, ESQ.
FELLOW OF THE SOCIETY OF ANTIQUARIES,
&c. &c. &c.

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TO HIS GRACE
ARTHUR WELLESLEY
DUKE OF WELLINGTON,

MARQUESS OF DOURO, MARQUESS OF WELLINGTON, OF WELLINGTON IN THE COUNTY OF SOMERSET; VISCOUNT WELLINGTON OF WELLINGTON AND TALAVERA, AND BARON DOURO OF WELLESLEY IN THE COUNTY OF SOMERSET; PRINCE OF WATERLOO, DUKE OF CIUDAD RODRIGO; FIELD MARSHAL OF AUSTRIA, RUSSIA, PRUSSIA, FRANCE, AND THE NETHERLANDS; GRANDEE OF THE HIGHEST CLASS AND CAPTAIN GENERAL IN SPAIN; DUKE OF VITTORIA; MARSHAL GENERAL IN PORTUGAL, &c.

MY LORD DUKE,

IN this age of free enquiry, authentic information scarcely needs the patronage of great names; but when I find your Grace's actions so blended with the modern history of Europe, and with the most glorious events in the English annals, and reflect that your Grace is descended from those ancient Dignitaries the HEREDITARY STANDARD BEARERS OF IRELAND, I consider that the following attempt to elucidate the origin of such HONORARY OFFICERS and FEUDAL DIGNITIES will gain additional interest by being inscribed to your Grace.

I remain, my Lord Duke,

With the most profound feelings

Of respect and gratitude,

Your Grace's servant,

WILLIAM LYNCH.

P R E F A C E.

PERHAPS there is no branch of research that tends to develop the history of states more effectually than enquiries into the origin of Nobility, and such other ancient institutions; growing out of the past customs, feelings, and proceedings of mankind, the origin of such ancient establishments can only be traced by the most accurate knowledge of society as it formerly existed, and of those epochs, which form the very basis of history; and if any proof were required of the justice of this observation, it will be fully obtained on referring to the account of English Dignities prepared by the Committees of the House of Lords, in which will be found authentic and satisfactory materials for the history of the people, the jurisprudence, and nobility of England.

With this impression, the present work on Feudal Dignities and Legal Institutions introduced into Ireland was originally contemplated; and, independent of such general considerations, the Author must confess he also conceived that the circumstances under which British laws first found footing in so important a member of the empire—the persons who were instrumental in the introduction and establishment of those laws—the proceedings consequent upon that great event—and the history of the system of nobility and public rights then founded, would form in themselves interesting subjects of literary enquiry.

Besides, some of the institutions introduced into Ireland appeared to present claims to peculiar notice. The common

law for instance, established by Henry the Second, was preserved there unchanged, in many respects, long after it had undergone alterations by statute and otherwise in England. In Ireland it was that the holding of parliaments, as now constituted, became first authorized by statute law; and there, in almost the earliest enactments, the authority of the third estate is fully recognized. Amongst the honorary hereditary offices created by King Henry in that country, is one which, after the lapse of six hundred and fifty years, still continues to be enjoyed by the direct heir male of the original grantee. There also, the principle of Tenure, in which originated the dignity of Parliamentary Peers, continued to prevail for a considerable period after it had fallen into desuetude in England; and it is remarkable that, almost without exception, such of the baronial dignities erected by Henry the Second as now exist, are represented there at this day by persons of the blood and surname of those on whom they were originally conferred.

Distinct however from such interesting peculiarities, there is one circumstance that attaches high respectability and consequence to the Irish peerage, and, in the Author's estimation, entitles it to more attention than has hitherto been bestowed on it. This circumstance is the extreme antiquity and rank as an European kingdom of the country whence those honours and dignities were derived. Would it be credible to those who only know Ireland as the prostrate victim of latter ages, that she was once the third kingdom of Europe?—that in the great assemblies of civilized nations, this her preeminent rank was recognized and allowed?—or that the King's prelates and peers of England obtained place and precedence over the proudest states of Europe, solely in virtue of the kingdom of Ireland? Yet such, however difficult now to believe, is literally true, and the fact is supported by undoubted testimony. Before the thirteenth century her rights in this respect were not denied; and in the reign of Henry the Third, according to the most satisfactory authorities, Albertus, the English Archbishop of Armagh, was allowed to subscribe at the Council of Lyons, before the prelates of

France, Italy, and Spain! But after the more general revival of learning in Europe, when national pretensions had been duly investigated, and indeed more jealously guarded, Ireland's antiquity as a kingdom was fully discussed before a competent tribunal, and, by a solemn decision, her rights were then confirmed. This decision, which, it should be observed, was made in a foreign country, and to which Ireland was not a party, cannot here be passed over in silence. On one of those important occasions when the kings and states of the Christian world assembled for regulating national rights, as well as other affairs of equal magnitude, and formed those great public councils called the "Parliaments of Christendom," or "Senate of Europe," this point, as to Ireland's antiquity, was brought to issue. It appears by several enrolments on the French Rolls in the Tower, that a Public Council was convoked at the city of Constance, and that Henry the Fifth, then King of England, being unable to be personally present, as he intended, at the assembly, or, as he says, "*quia taliter præpediti quod ibidem juxta votum nostræ mentis personaliter interesse nequimus*," addressed Royal letters to the other kings of Europe, requiring protection and safe conduct for Thomas Abbot of York, and other his abbots, then repairing to Constance, as also exemption for them, their attendants, servants, horses, &c. from the usual duties payable while travelling through such foreign dominions. Henry at the same time executed Royal instruments, whereby he made it known to the Council, that being prevented from attending in person, he had appointed as his "*Ambassiatores, Oratores, veros et indubitatos Procuratores, Actores, Factores, et Nuncios speciales*," Nicholas Bishop of Bath and Wells, John Bishop of St. David's, Richard Earl of Warwick, William Abbot of Westminster, Thomas Abbot of York, Lord Henry Fitz Hugh, John Prior of Wigan, Sir Walter Hungerford, Sir Ralph Rochford, and John Honyngham, Professor of Laws, to be present at such General Council, and in his name and for him to treat, discuss, and do all things necessary. It appears also that King Henry, in addition to those peers, prelates, &c. sent over the

PREFACE.

Bishops of Salisbury and Hereford; and the character of the
 men who sat in this assembly as representatives of England,
 may be gathered from the words of a cotemporary historian:
 “*Uti que de aliis taceamus, de Regno Angliæ missi sunt (says*
 “*Walsingham) ad Concilium viri valde venerabiles Salis-*
 “*burienſis, Bathoniensis, Herefordensis Episcopi, et cum his,*
 “*Abbas Westmonasterii, Prior Wigornia et plures alii*
 “*pollentes ingenio, religione famosi: horum cœtum honoravit*
 “*multipliciter præsentia Comitis Warwicensis.*” On the
 opening of the assembly, however, the rank and precedency
 of Henry’s ambassadors in the council became a subject
 of contention between them and the ambassadors of France;
 in favour of that country, great learning and ingenuity were
 displayed, at the same time that the cause of England was
 vigorously maintained, as might be expected from the rank
 and talents of those who represented her, and pending the con-
 test the affairs of Europe were laid aside, that the Council
 might determine this arduous question. At length the as-
 sembly gave judgment in favour of England; and one of the
 principal and most cogent reasons for England’s thus obtaining
 rank and precedency over her powerful rival monarchy will be
 found in the following argument of the English Ambassadors.
 “*Satis enim constat, secundum Albertum magnum et Bar-*
 “*tholomeum de proprietatibus rerum, quod toto mundo in*
 “*tres partes diviso, videlicet, Asiam, Africam et Europam:*
 “*Europa in quatuor dividitur regna:—primum, videlicet,*
 “*Romanum; secundum, Constantinopolitanum; tertium,*
 “*Regnum Hibernia, quod jam translatus est in Anglicos;*
 “*et quartum, Regnum Hispania: ex quo patet quod Rex*
 “*Anglia et regnum suum sunt de eminentioribus antiquioribus*
 “*regibus et regnis totius Europa, quam prerogativam Reg-*
 “*num Franciæ non fertur obtinere.*” In this way, England,
 while yet triumphing amidst the successes of Agincourt,
 was obliged to derive her preeminence over France, Spain,
 and Italy through her more ancient kingdom of Ireland,
 as the third of the original monarchies of Europe! The
 country that could obtain such rank and precedence for
 England may well be proud; and as our ideas of the superior

dignity and splendour of nobility are so much interwoven with antiquity of government, the Peerage of such a country seemed deserving of more particular enquiry.

Under these circumstances, and as the laws, usages, and rights of the English Peerage had occupied the attention of so many writers, the Author conceived he might be able to form such a collection of useful and authentic information respecting the origin, laws, usages, and other particulars connected with the ancient Dignities of Ireland, as would develop the history of the Irish Baronage, and furnish data indispensable for the legal consideration and adjudication of Peerage rights.

But before proceeding far in his undertaking, reasons occurred to satisfy him that a work of the description was absolutely required, and that considerable advantage would be derived from the result of such enquiries.

This appeared by claims recently preferred to the Crown for ancient Dignities said to be dormant or abeyant in Ireland: those claims are founded on the presumption that the rules of law which now govern the descent and inheritance of Prescriptive or Feudal Dignities in England must also prevail in Ireland; but this opinion is met by the fact, that all Dignities which survived the abolition of the Feudal system as Parliamentary Peerages, namely, the Baronies of *Arklow, Athenry, Barrymore, Clanrickarde, Delvin, Dunboyne, Dunsany, Fermoy, Gormanstown, Howth, Killeen or Rathregan, Kinsale, Lixnaw or Kerry, Ophaley, Slane, &c.* have from time to time been inherited, and are, with scarcely an exception, now enjoyed in direct opposition to the English Law of Dignities, on which such claims are grounded.

When we find therefore the present possession of so many Dignities, and the former course of descent of the Irish Feudal Peerage in general, opposed to the laws of descent prevailing in England, it is natural to presume that some law or usage must have already governed the inheritance of Dignities in the former country; and as such Dignities, having their origin at a most remote period of time, existed before the establishment of regular Parliaments, and appear not to

have been expressly provided for by statute law, it is evident that the deepest enquiry into their origin, rights, laws, usages, and course of descent, becomes of essential importance.

It must appear strange that no enquiry of this description has hitherto been made; particularly when we consider that the Claims now pending may lead to the introduction of *one hundred new Members into the Irish Peerage*, and to the *probable deprivation or disinheritance of several ancient Barons*. Mr. Selden, that profound enquirer into Foreign and British Nobility, has noticed, it must be confessed, the Irish Dignities; but evidently he wanted leisure or materials to pursue the subject. Sir John Davis, an author so often cited on Irish affairs, has scarcely adverted to them; and when we find him asserting, in the face of numerous documents still extant in the public offices, "that in all the records of the Kingdom I seldom find any mention made of *a Forrest*, and "never of any *Parke* or *Free Warren*," (rights so peculiarly interwoven with the origin of Feudal Dignities,) and recollect his misstatements as to the Irish Legislature, as also the general policy pursued towards the ancient Nobles of the country by that administration under which Sir John was promoted, it does not appear reasonable to conclude, that, in this respect, we have sustained serious loss through his omission. The late Mr. Lodge, the only writer who treated of the Peerage of Ireland with reference to records, paid so little attention to Prescriptive or Feudal Nobility, that where some of the most ancient Parliamentary Barons had been advanced by patent to higher honours, in the sixteenth and seventeenth centuries, they are to be seen inserted in his work as Peers by patent only, and of the date merely of such new creations. This indefatigable Author's collections afterwards formed the groundwork of all subsequent writers on the same subject; and as their knowledge of the Ancient Peerage seems to have been obtained solely from his data, such compilations of course are equally destitute of the desired information. But even in those valuable and extensive Reports prepared by the Lords' Committees on English Dignities, it is to be

regretted that the same silence prevails, as the terms of the Order under which their Lordships were acting had, it appears, precluded any enquiry into the Peerage of Ireland.

In this absence, therefore, of all useful aids from preceding writers, it became evident to the Author that he could never satisfactorily trace the origin of those ancient institutions but by minute and extensive research through ORIGINAL LEGAL RECORDS; and this task, involving such labour and expense, he was induced to undertake in consequence of possessing some unusual facilities towards its accomplishment. Having been at an early period of life officially engaged under Government in a department connected with ancient records, his duties rendered him conversant with their nature and contents, and brought to his knowledge many valuable materials for the present enquiry. Afterwards, as Investigating and Reporting Officer to the Commissioners of Crown Lands in the Treasury, before the Land Revenue of Ireland was placed under the control of the Board of Woods and Forests, he was obliged to have daily recourse to the original muniments preserved in the principal repositories, and thereby added to his information and collections. But having now been for some years discharging the duties of one of the most extensive Record departments in this country, namely, that over which the Chief Remembrancer of the Exchequer presides, containing some hundreds of voluminous rolls, and more than three thousand inquisitions, for the greater part relating to estates held under feudal services and tenures, and having, for his own convenience, formed a digest to a large portion of the judicial proceedings there to be found relating to such estates, he became acquainted with the decisions, descent, and other particulars affecting most of the ancient properties of the country, and more especially those belonging to the Feudal Baronage. Independently of these circumstances, his experience and information were much increased by several cases of individual claims or rights in which he had been engaged, and which necessarily extended his research through the several provincial offices in this kingdom, as well as through the leading Record repositories of England.

Such were the previous pursuits and facilities that led the Author to attempt deducing, from original legal records, a view of the ancient institutions formerly introduced into Ireland; and in pursuance of that course, which for the reasons just assigned appeared so unavoidable, he will be seldom found to have relied on any but original and authentic evidences.

Having taken as a basis the history and laws of that country whence those institutions and dignities were introduced, the Author endeavoured for a long time to reconcile to the laws and customs of England some peculiarities observable in the institutions of Ireland: this idea, which at first appeared so reasonable, he was however at length reluctantly obliged to abandon; and though, from the limited size of the present work, he felt precluded from giving fully, in every instance, the result of those enquiries which such an attempt involved, yet the reader may rest satisfied that his original opinions were not resigned until he found them outweighed by numerous and most indisputable documents. This point in itself involved great additional labour and research, but it also, at the same time, added much to the Author's COLLECTIONS; and these, he hopes, at a future day will be useful towards elucidating the history of the more ancient FAMILIES, and of the CORPORATE and ECCLESIASTICAL ESTABLISHMENTS which they founded in the country.

On such points however, and on all others, the Author, uncontrolled by the views or feelings of any individual, and drawing his opinions from the most unquestionable sources, has freely and unreservedly expressed himself: in doing so, from a belief that the work may be referred to by general readers, he avoided as much as possible the technical phrases which crowd our ancient records, and which, for the greater part, are only intelligible to the legal profession: and on the whole, he sincerely hopes, when it is seen how much has been done by the labour and expense of one individual, that the subject may be more fully undertaken by those who possess the necessary authority.

The Author takes leave to express his thanks to the Marquess of Ormonde, the Marquess of Westmeath, the Baron of Killeen, the Honourable Randall Plunket, and Henry Villiers Stuart, Esq. M.P. for their polite attention to his enquiries.

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For the article on the Hereditary DIGNITY of the BUTLERAGE this work is principally indebted to the Honourable William Butler, whose knowledge of British and Foreign Dignities, and disinterested friendship, induced the Author to seek his assistance when treating of that Dignity.

To Edward Lawson, Esq. who has been so long engaged in collecting the Ancient Statutes, and to several other members of the Irish Bar, who were uniformly open to the Author's enquiries, this work is also much indebted.

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ABBREVIATIONS.

In the marginal references, the letters T. L. shew that the Record cited will be found in the Tower of London. The abbreviations Chan. Dub. refer to the Rolls Office of the Court of Chancery in Dublin; and the other abbreviations used are generally such as seemed most intelligible to those conversant with the contents of our Record repositories.

ERRATA.

A few typographical inaccuracies have crept into the following sheets, which the reader will please rectify: thus in page 157, line 14, the word *his* occurs for *its*; in page 161, line 19, the word *Copy* for *City*, &c.

ADDENDA.

In Chapter V. under the head of *Baronies by Writ*, it is stated that Writs of Summons with consequent Sitzings never created Hereditary Parliamentary Peerages in Ireland, and the descent of several Barons summoned by the writs of Edward II. Edward III. Richard II. &c. which are given at full length in Chapter XI. will support this opinion. But it should have been added, also, that there are on the Public Rolls from Henry VIII. to Charles II. different warrants and Kings' letters for summoning particular persons whose heirs afterwards derived nothing under the writs so issued. Of these, the cases of Lords Abercorne, Audley, Ochiltree, Burleigh, &c. deserve to be more particularly cited as supplying a remarkable instance of what has been above advanced: by royal warrant, dated 31st March, 11th James I. those noblemen were ordered to be called to the House of Lords in Ireland by writs, yet their heirs inherited no honours under such writs and the consequent sittings.—Chanc. Roll, Dub. 11 J. I.

A VIEW
OF THE
LEGAL INSTITUTIONS,
&c. &c.

CHAPTER I.

**INTRODUCTION OF LAWS AND CUSTOMS OF ENGLAND
INTO IRELAND.**

IT is universally admitted, that the Feudal Dignities of England had their origin in the Laws and Customs prevailing in that kingdom during the eleventh and twelfth centuries; and it therefore becomes necessary in an account of those Dignities of a similar character which we find existing from a very remote period in Ireland, and which evidently originated in the same source, to ascertain when the system of English jurisprudence was introduced into the latter country. In such an enquiry, it fortunately happens we have not to encounter the usual difficulties, as a greater number of authentic evidences still exist connected with the English settlement made towards the end of the twelfth century in Ireland, than the history of other settlements effected in Great Britain, or the remoteness of the period, would lead us to expect. Hence our information on this subject may be gathered from the well considered language of legal Records, instead of the imperfect, contradictory, and indeed too often erroneous statements of Annalists and Historians.

Amongst the original muniments above alluded to, perhaps few now remain more illustrative of the principal Laws of England, than the ancient Pipe Roll of the year 1171, preserved in Somerset House. By this document we find that King Henry the Second, when about making his Voyage royal into Ireland in that year, proclaimed Scutage throughout his dominions ; in consequence, all those holding in capite under the Crown by military service were bound to accompany the King in his expedition, and if not proceeding in person, were allowed to send so many knights, or to make pecuniary compensation in proportion to the service due out of the estates which they held under the Crown. This was the Common Law of England, and to such service of attending the King with men and arms in his wars, even the clergy from the reign of William the First had been liable equally with the laity ; accordingly, the record just mentioned minutely details the sums which the bishops, abbots, and other superior ecclesiastics, as well as the earls, barons, &c. not accompanying the King, were obliged to pay as Escuage on that occasion. The honors and lordships also in the hands of the Crown by minority of heirs or escheat, with the vacant bishopricks and religious houses, were all made contributory to the expences of the voyage royal. It appears that the King's officers in each county returned the escuage chargeable on estates ; and where the extent of property, or of the service due out of such, was doubted, certificates, or "*cartæ*," as they are termed, of the real amount were sent to the Exchequer by the lords or tenants of such estates. The purposes to which this money was applied by the King, or under his orders by the venerated Randolph de Glanvilla, are set forth on the Roll, and the principal payments seem to have been made for the arms, provisions, and shipping of the army, which numerically, from those payments we can perceive, far exceeded the force described in our printed historians. But some of the smaller items are not undeserving of notice at this day :—thus we find 26s. 2d. paid for adorning and gilding the King's swords ; £12. 10s. for 1000 pounds of wax ; 118s. 7d. for 569 pounds of almonds sent to the King in Ireland ;

Pipe Roll
17 Hen. 2.
Somerset
House,
London.

15s. 11d. for five carts bringing the clothes of the King's household from Stafford to Chester, on their way to that country; £10. 7s. for spices and electuaries for Josephus Medicus, his Majesty's doctor; £4. for one ship carrying the armour, &c. of Robert Poer; £29. 0s. 2d. for wine bought at Waterford; 9s. 8d. for the carriage of the King's treasure from Oxford to Winton; £333. 6s. 8d. to John the Marshal, to carry over to the King in Ireland; and £200 to the King's Chamberlain, to bring to his Majesty on returning from that country.

The Pipe Roll thus exhibits an army raised, munitioned, and otherwise supplied, not by the arbitrary levies or tyrannical exactions of the Monarch, but by virtue of the laws of tenures and services, then so well understood, and so long established in England.

This army, after proceeding to Ireland, was commanded there in person for some time by the King; but the urgency of his affairs in a few months obliging him to sail for Normandy, to secure his new acquirements, Henry conferred estates and dignities on many of the principal knights who accompanied his expedition into Ireland; and in this way was effected the first regular settlement under the English government in that country.

Most of the persons who obtained those estates had already been tenants in capite of the Crown, and were consequently acquainted with the principles and duties of the Feudal System, constituting, as it then did, the larger share of the Laws of England; but embodied as they were so lately in the very spirit of that system, and having had such recent proof of its efficacy for attaining the great object of human ambition in that age,—the acquirement of territorial dominion,—it was natural for those settlers, had they a liberty of selection, to adopt the laws under which they were born, and with which, of course, we must suppose them best acquainted.

But no right of selection was allowed those settlers to the exclusion of the feudal obligations. In that age, according to the best writers, the states of Europe resembled so many fiefs or seigniories held under one common lord: each sove-

reign had his state divided into lordships or baronies; and from the fealty, homage, and military services to be rendered for these, he derived his power and authority; while the lords and barons again drew their power from the aids and services of the free tenants and vassals, amongst whom they subdivided their seigniories, distributed justice, and ruled with almost royal authority. This was the situation of most European countries in the age now spoken of; and in locating his principal officers in Ireland, King Henry, in pursuance of that system, granted estates to those settlers and their heirs, in consideration of homage, fealty, and military or honorary services, to be rendered to himself and his heirs. Such were the conditions of all the grants made by the King; and so tenacious was Henry of his rights and authority in this respect, that even Richard Earl of Pembroke, his precursor in Ireland, who by marriage with Eva, daughter of a native prince, acquired the principality of Leinster, was obliged to resign possession of that estate, and accept a royal grant thereof, subject to the expressed conditions of homage and military service.

Many grants made at that period can still be traced through the public Rolls, and several of them will be found cited in the present work; but none have as yet been discovered which were not framed agreeably to what has been just asserted. Hence a general acceptance of the Feudal System as it then prevailed in England, and of the duties, services, and conditions which it enforced, was the consideration given to Henry for those estates by his subjects now settling in Ireland. The Crown tenants of that country, when addressing the Crown, within forty years after the settlement then made, declared that Henry the Second had given them their lands to hold of him and his heirs, by knight's service; and King John's order in consequence of that declaration is confirmatory of the fact stated. This universal declaration is also fully supported by the charters made to De Lacy, to Richard Earl of Pembroke, to Robert Fitz-Stephens, and Milo de Cogan (as found by inquisition), to Robert de S^{co} Michaele, to Nicholas Labench, to Walter de Riddelsford, to William Fitz-Morice, and

several others, in all which charters we find estates granted *hereditarily* for *homage* and *military services*, being the tenures then known to the laws of England, although previously unknown amongst the natives of Ireland.

But these charters went still further: in most of them will be found grants of *soc, sac, tol, them, infangthef, outfangthef, duellum*, &c. and thereby the grantees derived, amongst other powers, that of holding a Court and exercising a civil and criminal jurisdiction within their respective seigniories. Now, in the reign of Henry the Second, and long after, one of the reciprocal duties subsisting between the lords of such seigniories and their free tenants and vassals was the holding of this court, which was stiled the Court Baron: unless in such court, and with concurrence of the tenants, the lord was unable to exercise particular rights of ownership over his seignior: in it he obtained the ordinary Feudal aids for himself; and when summoned to the *Commune Concilium* of the realm, he could not vote his sovereign an extraordinary or extra-feudal aid, without first obtaining the sanction of his tenants assembled in the Court Baron. In this court all controversies arising between the people, and all delinquencies, were decided by the baron or his seneschal; and out of this court none of the tenantry could sue or complain, even before the King, without first giving solemn proof that their lord had defaulted in justice. The power of holding such courts therefore was not a right granted for the benefit only of the lord, or to be exercised solely at his option, but was a power or trust delegated to him by the Crown, in part for his own advantage, and partly also for important public purposes.

Accordingly, those tribunals were established by the respective lords to whom grants had been made in the new settlement; and the whole machinery of the Common Law of England was in consequence soon set in motion amongst the subjects of Henry the Second in Ireland. Particular proofs of this need scarcely be offered, where causes so reasonable have just been assigned; but a record dated in less than two hundred years subsequent to this period is deserving of notice. In this record, King Edward the Third, after the examination, as he

Chancery
Roll, Dub.
H. 5.

says, of many records and ancient proofs, certifies that Hugh de Lacy, from the time of King Henry the Second's grant to him of Meath territory, held and enjoyed all jurisdictions and cognizance of all pleas with courts and their proper seals, officers within that district, &c. ; and that the heirs of the same Hugh after him continued to hold and enjoy the same. In a similar manner we find that John de Courcy enjoyed the same courts, jurisdictions, and officers, in the province of Ulster, held by him under the Crown : this appears from his deeds of endowment of the Monastery of Down, &c. which are witnessed by his *Seneschal, Constable, Chamberlain*, and other officers usual for upholding such jurisdictions ; and by those deeds, in express words, he granted to the abbot and religious of that house the power of hearing and deciding *all pleas and suits* brought by their tenantry, even pleas of *murder, rape, fire, blood*, and pleas of all other matters and things that could, as the record states, possibly arise there, with the fines, forfeitures, &c. ; and he granted that his own officer might be present on such occasions, merely to see and hear that all be justly done, without any prevention or collusion of law.

Patent
Roll, Tow.
Lond. 42
E. 3. p. 2.

The two instances which can be thus adduced prove the introduction of English laws into Meath and Ulster ; and those districts, forming one third of the entire island, contained more than three fifths of the districts where English settlements had been made.

Blk. Book
Archdio.
Dub.
Original
Charter in
Author's
possession.

Notwithstanding the remoteness of the period, many other legal documents connected with that King's reign still exist, all tending to shew that he had fully established within the English districts of Ireland, the laws which prevailed within his other dominions. We have many charters granted to the higher clergy conferring on them the power of *holding courts* in different parts of the island, also granting to them the *tithes of estates* ; and in Henry's reign it was that the lands of Coillach were granted to the Archbishop of Dublin in barony tenure, by which he and his successors were advanced to the dignity of Lords of Parliament. These were rights and interests created by the laws of England, and were wholly new

in Ireland, where tithes had been unknown, and where up to that period the dignity of the Prelacy was wholly distinct from that of the Peerage.

During Henry's reign also the hereditary Honorary Officers attached to the King's court were introduced into that country, as will be seen by a more detailed account of those offices in a subsequent chapter. In his reign that remarkable statute called the Statute of Henry Fitz-Empress was framed, whereby the chancellor, treasurer, and certain other officers, with the assent of the lords spiritual and temporal, were empowered to proceed to the election of a chief governor, when that office happened to be void.

See Chap.
IV.

Statute
Roll,
Chanc.
Dub
2 Ric. 3.

By his charters to the City of Dublin, he conferred on them the *Laws of Bristoll*, stiles the inhabitants his *burgesses*, and grants them free trade, &c. throughout his kingdoms of England, Normandy, Ireland, and Wales; in short, the above and all other instruments executed in that reign, convey such rights, liberties, and privileges only as were then familiar to the laws of England, and were wholly foreign from, and in most instances opposed to, the laws and customs previously prevailing amongst the natives of Ireland. After Prince John was vested with the Lordship of Ireland, and by residence there had acquired a thorough knowledge of the country, he deemed it prudent to grant the inhabitants of cities and other fortified places, charters of privileges, which, elevating them above the level of the great body of tenants and vassals, might secure their attachment to his government. The charter granted on this occasion to the citizens of Dublin was dated within three years after the death of his father King Henry; and so far did John consider the English laws to have been regularly established in the country by his father, and to have been then in full force, that this charter of special liberties and privileges to the citizens of Dublin seems little better than a list of exemptions by which those citizens, as objects of royal favour, were to be freed from the burdensome services and duties which, according to the laws of England, the inferior tenantry were bound to render their lords. Thus, by that charter the citizens were exempted

Original
Charters,
Town
Clk's Off.
Dublin.

Original
Charter,
Town
Clk's Off.
Dublin.

from *toll, pontage, passage*, &c. in Ireland; from the *quellum* also, for which the trial by jury is substituted; from all *finés* but those imposed in their own *hundred court*; from being disposed of in *marriage* by their superior lords, from whose *guardianship* their sons and daughters, while *under age*, were to be likewise exempted, &c. &c.

Patent
Roll,
T. L.
9 John.

A remarkable ordinance issued by John when King of England, affords more direct and satisfactory evidence on this point. By this ordinance, the King makes it known to the barons, knights, and all his subjects in Ireland, that he had delegated power to his Justiciary there, to issue *writs of right, writs of mort d'ancestor, writs of novel disseizin, writs de nativis et fugitivis*, &c. and that he had established periods of limitation for suits instituted under those writs, but particularly that the limitation assigned for all proceedings by writs of right and mort d'ancestor should be *from the return of his father King Henry the Second out of Ireland*. This event occurred in the year 1172, and only a few months after Ireland first became annexed to the Crown of England. By virtue of the above ordinance, those writs which had previously been granted solely by the King were regularly issued by his Justiciary; and the law continued unchanged as to the limitation for actions by such writs, except so far as related to writs of mort d'ancestor, which King Henry the Third by another ordinance, made *at the request of the magnates of Ireland* as he states, commanded should be limited to the *coronation of his uncle King Richard the First*, being the period of limitation then assigned for that writ in England. But the limitation for the writ of right and other writs remained as King John had commanded, and his ordinance is conclusive evidence that legal rights, and consequently the English laws, commenced in the year 1172, or as soon as Henry the Second had personally established his authority in Ireland.

Patent
Roll,
T. L.
6 H. 3.

Close
Roll,
T. L.
12 H. 3.

The same fact may be collected from other ancient state writings, and more especially from an order made to his Justiciary by Henry the Third, commanding that inquisitions be held to find out all *purprestures* made on the royal demesnes, escheats, castles, lands, &c. in Ireland, as well dur-

ing his own reign, as during the reign of his father John, and of his grandfather, King Henry the Second.

The most ancient records now existing of legal proceedings, had either in England or Ireland, are to be found on the Rolls in the Tower of London. Those Rolls commence in the year 1199, or in the first year of King John's reign; and as some of the earliest entries on them relate to Ireland, and to judicial proceedings then in progress in that country, they shew most satisfactorily that John on his accession to the throne found the laws of England, as might be expected from what has been already stated, in full operation within his Irish dominions.

On the Roll of the first year, for instance, we find William de Naas paying the King 100 marks *fine* for having a writ of *mort d'ancestor* against the Abbot of Baltinglas. Ma-
 naser Arsic pays 20 marks for having a *trial by writ of novel disseizin* against Theobald Walter, the ancestor of the Earls of Ormond; but the said Theobald afterwards pays the King 80 marks that the trial may take place, not in Ireland, but before his Majesty in England—an indulgence much sought for, and productive of great revenue to the Crown. Richard Gille Michel pays 66 marks 2s. 3d. for permission to compound the *appeal* which Owen Brien had instituted against him for the *death of his father*. On the Roll of the second year, Robert Fitz Richard pays 100s. (*primer seizin*) to have seizin of the estate which belonged to his father, whose *heir* he is; and Henry de Ressebir pays 10 marks that the *suit* between him and William Petit (Lord of Dunboyne) for lands in Meath should proceed and not be delayed by the charter the said Petit had obtained, which exempted him from being sued any where but before the King. In that roll also is the King's order that no *outlawry* be made in *any court in Ireland*, but in his the King's Court there only. In the same year the King appoints Meyler Fitz Henry his Justiciary of Ireland, reserving however *all pleas* belonging to the Crown. Affric de Curtun gives 30 ounces of gold for a *trial by twelve free and lawful men*, whether Hugh de Lacy had *unjustly and without judgment disseised*

Oblata
Roll,
T. L.
1 John.

Oblata
Roll,
T. L.
2 John.

Charter
Roll,
T. L.
2 John.

Oblata
Roll,
T. L.
3 John.

Charter
Roll
5 John.
Patent
Roll
5 John.
Fine Roll
6 John.
Close
Roll
9 John,
&c.

him of *two knights' fees* in Grenoc and Killeglan; and on getting security for payment of this fine to the King, the Justiciary is ordered to *summon twelve men* to be at the *first or next county court of Dublin*. The Hospitallers of Kilmainham give the King *two palfreys* for his patent, exempting them from being *impleaded* but before his Majesty. In the fifth year of his reign, the King sends writs to all his subjects in Ireland for an *Aid* similar to that just granted him in England. The King also orders *finer* to be taken for the *escheats* then in his hands, and William Marshall Earl of Pembroke obtains a grant of the *wardship* of the *heir* of G. Fitz Maurice (ancestor to the Dukes of Leinster) and of his castles of Leix and Geashill, because they were *held of the fee of said Earl*. Walter de Lacy is allowed to pay his debt of 550 marks by instalments yearly *at the Exchequer*. And the King elsewhere notifies *to the Barons of his Exchequer in Dublin*, that he had received in his chamber at Marlebridge 1500 marks out of Ireland. The *judgment of the county court of Dublin* as to life, members, &c. is ordered to be rendered on Geoffrey de Marisco and others. Gilbert de Angulo (Baron of Navan) is pardoned the *outlawry* formerly had against him. The *reasonable dower* of his wife Matilda (widow of Theobald Walter) is ordered for Robert Vavasour, viz.: the *third part* of said *Theobald's freeholds* in Ireland; because the said Robert paid a *fine* to the King for the *marriage* and *dower* of the same Matilda. In the 9th year of his reign, the King issued an ordinance, whereby he declared to his subjects in Ireland, that as he was bound to maintain and protect their rights, and to preserve and defend those of his Crown, so he wishes they should not be ruled but by *law and judgment*, nor arbitrarily deprived of their goods, nor *unjustly disseized of their freeholds*, nor *impleaded* for that purpose by the *writ* of any one but himself or his Justiciary; wherefore he charges them on their fealty, not to *answer in any court respecting freeholds*, unless by the writ and precept of him or his Justiciary, before whom only, or the *Justices sent to maintain right amongst them*, they should *answer any pleas of the Crown*, &c. And his Majesty thereby assures

them that if any one disturb them to the contrary of this ordinance, on going to his Justiciary he will assist them with all his power: moreover the King prohibits *all money* but his the *King's money*, which he caused to be *current* through Ireland, under penalty of loss of *life and members*.

Patent
Roll, T. L.
9. John.

Such are a few of the entries appearing on the earliest rolls in the Tower of London; and the most ancient court rolls in Ireland afford still fuller evidence to the same effect. By them we may perceive that all the legal proceedings known to the laws of England were in due practice in the courts of justice in Ireland; and on the first fragment of them that can now be found, we find *sheriffs* returning their *yearly accounts*, payments of *aids*, *talliage*, and *subsidies*, fines to the King for *reliefs* and *wardships*, *profits of bishopricks* going to the Crown during vacancy, *process of distraint*, fines paid for *trespass*, for *escapes*, for *disseizins*, and for *defaults*, &c.

Fragment
of Account
Roll. 16 H.
3. Treasur.
Rem. Off.
Dublin.

In some rolls also of the same court, there will be seen suits and forms of trial which had not originated in statutory provision, but which, as part of the ancient Common Law of England were introduced into Ireland with the first settlers under Henry the Second. Thus, as to the *duel* or *wager of battle*, Galfridus de Prendergast sues Paganus de Hynteberg for the estate of his mother Alienora in the county Limerick, and de Hynteberg calling to warranty William del Loundre, he came and defended the right, &c. which he offers to prove by *the body of his champion*, &c.: and said Galfridus comes and is prepared to disprove that right, by *the body of his champion* also; therefore the court orders that a *duel* be waged at Drogheda on Monday next, &c., and on that day came the *champions armed*, with their pledges, &c., and the duel was waged, and the appellant conquered the defendant; therefore it was adjudged by the court, that he should have the lands, &c., and William de Alneto (the conquered champion) was *recreant*, and under fine, &c.—Proceedings also by the very ancient writ *de nativis* are to be found there; thus, the Prior of Christ Church, Dublin, brought his writ against one William, whom he claimed to be his *native* or *villein*; and he pleaded that his predecessor was *seized of this William's great*

Chief Re-
memb.
Roll Dub.
6, 7 E. 1.

- Chief Rememb.
Roll Dub.
31 E. 1. *grandfather as of fee in right of his church*, in the time of King Henry, by taking the profits, &c., and by taking *merchate* (*merichetum*) on the marriage of his sons and daughters, and by *talliages* high and low at his will, and by other *villenous services* to the value of, &c. To this the defendant pleads with considerable speciality, but judgment went for the Prior; and it is to be observed, that the pleadings in this case are strictly conformable with what is laid down in Glanville's treatise on the subject.—By the law of England, confirmed by Henry the Second and his successors, the *armour*, &c. of the Crown's tenants were exempted from seizure or sale for debt due by their owners, even to the King; and this ancient branch of the Common Law, we find, prevailed also in Ireland: thus, on the death of Lord Walter de Bermingham, who stood indebted to the King, his estates, and with them his armour, were taken into his Majesty's hands; but the King immediately conveyed all the armour (specifying each piece distinctly by name, and its price) to Sir Robert de Preston, who was guardian of Lord Walter's son and heir, in trust, that Sir Robert should deliver the same to the son and heir when arrived at full age.—That ancient perquisite of the Queens of England, called the *aurum reginæ* or *Queen's gold*, appears in many records to have been paid in Ireland from a very remote period; and on its being questioned, or perhaps misunderstood, King Edward the Third enclosed to his treasurer and barons in Ireland a transcript of a statute (as he says) anciently edited and used and approved of in the Exchequer of England, commanding them to enrol the same, and to observe it in the levying of the Queen's gold. The statute then enclosed appears to be part of the "*Dialogus de Scaccario*," and was transcribed from the Red Book of the English Exchequer. After that period, this perquisite was regularly paid, though perhaps in a higher proportion than in England; and Queen Anne, the consort of King Richard the Second, having by letters patent appointed her attorney general in Ireland, with power to exact, levy, and receive her gold, in the *manner anciently accustomed in those parts*, the King commanded his lieutenant, justiciary, chancellor, &c., to be aiding and
- Glanville
Lib. 5. cap.
1. 3 and 4.
- Chief Rememb.
Roll Dub.
25, 26
E. 3.
- Chief Rememb.
Roll Dub.
16, 17 E. 3.

assisting for that purpose, as often as the said attorney general should require.—Proceedings also by *ecclesiastical corporations*, which, whether sole or aggregate, were so well known to the ancient Common Law of England, will be found on the rolls of the same court ; many of those corporations, in exhibiting their charters, shew a foundation coeval with the reign of Henry the Second, and almost all claim existence in their corporate capacity from time immemorial, or from and before the year 1189. But a *lay elemosynary corporation* of a curious character created in Ireland is deserving of more particular notice : it appears that John, for the good of his soul, and of the souls of his progenitors, by charter granted to the commons or commonalty of the counties of Dublin and Meath, *commonage of turbary* in the Moors of Garristown, Balrothery, and divers other places : to hold to them and *their successors* in *pure and perpetual alms*. This right was enjoyed by the grantees and their successors for three hundred years, at the end of which time they complained to the King that the trust was abused by some exercising the right in improper places, and digging deep ditches therein, &c. ; wherefore Henry the Seventh, on the 8th of March 1496, empowered Christopher Preston and Edward Preston knights, by commission, to superintend those commons by themselves or deputies, and to do all other things necessary for the support and continuance of this elemosynary foundation. It were tedious, however, to swell the number of those examples, and it is hoped the few now given will be deemed satisfactory.

Chief Rememb.
Roll Dub.
12 H. 7.

It only remains to be added, that in all cases where the Common Law was doubted, unknown, or defective, recourse was had to the King, by whom its difficulties were expounded, or new remedies supplied where the law had been previously defective.

An instance of application for a Royal ordinance where the law of *Tenures and Services* had been forgotten, or not precisely known, occurred when King John was last in Ireland. On this occasion the Crown tenants prayed his Majesty, that as he and his father Henry the Second had given to

them and their heirs divers lands, some to be held *by the service of one, two, three, or more knights' fees*; others by the service of certain parts of a knight's fee; some by service of *one serjeant of foot*; and others *by service when escuage runneth*; so they now, not knowing the time or manner of rendering those services, pray his Majesty, for the *love of God*, and in *way of charity*, to certify the same, that through ignorance they may not make default. Whereupon the King ordered that every man do his service when escuage runneth; that is, when the Royal service is proclaimed, viz.: when the King, by common council of his tenants, sends on a certain day and place, by warning of forty days at least, to do battle or to ride on hosting for forty days or more or less, to war upon his enemies, then every man holding by knight's service is bound to have at his own cost, in company of his lord, for every knight's fee one able man, armed as a knight, viz. in the old time every man should be armed with hawbercks or helms, with shield, spear and sword, being upon an able horse; but now the King wills, that the said man be armed as knights are accustomed to be armed in Ireland, &c. The tenant holding by service of one serjeant of foot is bound to have there also one able man, who was formerly armed with a spear, shield, and long knife, for which are now substituted a bow, shaft, and sword, as accustomed in Ireland. Defaulters are to pay twelvepence for each day, and for every knight absent, and sixpence for each day, and for every serjeant of foot absent, &c. &c.

The Magna Charta of King John, according to the best and most learned writers, is but a restoration or confirmation of those laws and liberties which had been enjoyed in England before the reign of Henry the Second: to such laws and liberties the King's Irish subjects were also entitled as well by usage as by inheritance from their ancestors who originally settled in Ireland, and therefore, in a few months after the original grant had been made to the people of England, King Henry by his patent acquainted his subjects in Ireland, that he had conferred on them those liberties, a copy of which he now transmits, sealed with the seals of his

officers. The copy then transmitted has some *necessary* variations from King John's Charter; it is generally stiled the "Magna Charta Hiberniæ," or, in ancient pleadings, the "Grand Charter," and was transcribed into the Red Book of the Exchequer at Dublin, where it is still to be seen, and shews what extensive authority the Crown formerly possessed, not only in the administration of justice, but also in the declaring and confirming of our laws. The above charter, however, is here only referred to as a declaration and grant of the common laws made to his Irish subjects by the King, and we shall proceed to the next exercise of the Royal authority.

Red Book,
Chief Rememb.
Off. Dublin.

This occurred in a few years after, when King Henry, at the request of the magnates of Ireland, altered the period or limitation for suing by writs of mort d'ancestor, from the year 1172 to the coronation of King Richard in the year 1189, as already noticed. Immediately after, he ordered that in districts where Irish natives inhabited, *bounds* should be made according to the custom of Ireland; but in those places exclusively occupied by English, that bounds should be formed according to the custom of England.

Patent
Roll, T. L.
6 H. 3.

In the next year, on a petition from Matilda, widow of the Baron of Naas, complaining that for the *relief* due of the heir of the said baron, she had not only been disseized of her dower as widow of that baron, but also of the dower which she had in right of her former husband, Philip de Braose: the King ordered the lady redress, declaring the law to be, *that no woman should be distrained by her dower for the relief due of her husband's heir, much less by the dower which she had of a former husband.*

Close
Roll, T. L.
7 H. 3.

About the same time, the Sheriff of Dublin having demanded 100s. as his fee for putting Ralph de Turberville into possession of the manor of Balmadun, which he had obtained by grant from the Crown, at the annual rent of one pair of gilt spurs, his Majesty forbids the exaction of such a fee, as *it was the custom of England for no sheriff to demand more than one ox for giving seizin of lands*, and this de Turberville had already paid. In the year 1227, the law

Close
Roll, T. L.
8 H. 3.

Close
Roll, T. L.
11 H. 3.

as to *tenants by the curtesy* was declared by the King to be, that if a man married a female who had an inheritance, and by her had a child, *whose cries were heard within the four walls*, such husband, on surviving his wife, should have the custody of her inheritance for his life, although she might have had an heir by a former husband then of full age. On a subsequent occasion where a legal difficulty occurred, as to the estate of David de Rupe or Roche, who had two sons, the elder of whom died in his father's lifetime leaving daughters; and those daughters having on their grandfather's death brought a writ of right against the uncle, the King prohibited all such proceedings, declaring it was not the custom or law in his land of England, that the daughters of any elder brother, the younger brother succeeding his father hereditarily, should enter on his estate. This point was one of considerable importance; and in the reign of Henry the Second Glanville expressly calls it "*magna quidem Juris dubitatio*," but the circumstances under which John came to the throne, perhaps may have led his son Henry to the above decision; and certainly a judgment in favour of the daughters would have been opposed to the law of Royal succession then prevailing in most European states, where, as we are informed, "there is scarce an instance in Europe, till the 13th century, in public successions, in which, upon the death of a grandfather leaving a son of age, and a grandson under age by an elder brother deceased, the son did not take to the exclusion of the infant."

Close
Roll, T. L.
13 H. 3.

Glanville,
B. 7, c. 3.

Dalrym-
ple's His-
tory of
Feudal
Property:
London,
1758.

Patent
Roll, T. L.
18 H. 3.

On the 28th of October, in the 18th year of his reign, King Henry prohibited all his earls, barons, knights, and freemen in Ireland from trying questions of church patronage in the ecclesiastical courts, as prejudicial to his crown and dignity, and contrary to the customs and laws of England, which, by common consent of all, King John had ordered to be observed in Ireland. It must be here observed that this last sentence as to King John appears also in other documents, which, when published in the seventeenth century, led some writers of high authority to conclude, that the laws and customs of England were first introduced into Ireland by

John in the year 1210, but the records cited from the Tower Rolls in this chapter are all anterior to that year, and the reader must therefore be already convinced of the incorrectness of such an opinion. In fact, the real import of the document has been misunderstood, and a more extensive and accurate knowledge of our early original records would have prevented the erroneous construction just noticed.* Soon after this, four knights were sent out of Ireland, to represent to the King that when inheritances there devolved on sisters, the justices were uncertain, whether the younger sisters should hold of their elder sister, &c. and to pray his Majesty to certify the usage of England in that respect, &c. Whereupon the King, after reciting the above circumstances, declares or certifies the law and custom of England in such cases of coheirs, and enjoins that the same should be proclaimed and observed in Ireland. Printed Statutes.

By such writs, patents, charters, and ordinances, the Common Law was expounded and enforced, and even occasionally a higher authority was exercised by the Crown in the creation of new remedies for supplying defects in the existing law; such power, however, in the course of time, was confined within narrower bounds, and ultimately became restricted to the King's officers, his courts, revenue, and other matters, some of which at the present day are allowed to be within the legitimate control of the Crown: but at what period, or in what reign, the King's ordinances completely yielded to

* Another mistake was made as to King John, and that by a higher authority: Lord Coke mentions that that King had visited Ireland three times, being there in the third year of his reign; and though no authority appeared to warrant the assertion but the name of that great writer, the circumstance was unquestioned: lately, however, a curious and valuable paper, published by the Society of Antiquaries, and compiled by T. D. Hardy, Esq. has fixed the position of John and his court almost daily from the commencement to the end of his reign; and it thereby appears, that with the exception of a few days spent at the places in England therein given, the King passed all that, and nearly the next two years, on the Continent, which shews the incorrectness of Lord Coke's assertion. The paper alluded to contains most valuable data of general utility, and reflects much credit on the research and talents of its Author.

the more constitutional authority of parliamentary enactments, has never yet been precisely ascertained.

It is now presumed, that sufficient authorities are here adduced to prove that the Laws, Customs, and Usages of England, were introduced into Ireland during the reign of Henry the Second. In offering proofs for that purpose, brevity became a principal object, and in consequence, many charters granted by King Henry—the recitals of several ancient statutes, the pleadings of corporate and ecclesiastical bodies, claiming most of their rights from time immemorial, or from before the year 1189—and the positive assertions of some historians of the twelfth century, with many other authorities, were unavoidably omitted. Those records, however, were the less reluctantly dispensed with, when it appeared that the point could be established without the aid of such evidence.

CHAPTER II.

CUSTOMS AND USAGES OF IRELAND.

To the English settlers, however, many circumstances soon occurred, and exigencies arose, which had not been contemplated or provided for by the Common Law of England. In fully adapting themselves, therefore, to their new situation, it became necessary, in various cases, to pursue that course of conduct, and follow those rules which seemed best calculated to meet such exigencies; hence originated, as might be expected, certain deviations from the Laws of England; and these, after being generally used and approved of, were stiled the *Customs and Usages of Ireland*.

At that period, the laws prevailing in England, perhaps, principally derived their force from custom; the Civil Law, then universally promulgated and practised, also assigned such weight to the general customs of countries, that even dignities (according to the Institutes) were to be decided by their authority; while the Feudal Law, in full force in the same age, from the genius and habits of those people amongst whom it originated, looked to the “*Mos Regionis*,” and the “*Usus*” or “*Consuetudo Provinciæ*,” as the only law, in many questions of the highest magnitude.

Under these circumstances, we find such monarchs as shewed most anxiety for the observance of English laws in Ireland, not only foremost in recognizing, but also in affording the royal sanction to those customs and usages which, founded in reason, devised by unavoidable necessity to meet the difficulties which presented themselves to the first settlers, and above all, not being repugnant to the paramount rights

and jurisdiction of the Crown, must have had considerable share in preserving the English interests in that country.

CloseRoll, 8 John. An instance of those customs being recognized by the Crown occurs so early as the year 1207, when King John directed his Justiciary of Ireland to ascertain by a jury what lands belonged to the churches of Saggard and Esker, and to cause those churches to have the lands so found "*juste et secundum consuetudinem Hiberniæ*." On the 10th July, in the sixteenth year of his reign, the same King directs that lands be assigned to Henry Iverbricht, as, *according to the custom of Ireland*, he could not be restored to his paternal estates on account of his father's offence. In the next year a grant was made by the Crown to Walter de Angulo of the wardship of all the lands lately held by Adam Rudipat as long as the heir of the said Adam is under age, "*according to the law and custom of those parts*." Though King Henry's letter, when forwarding Magna Charta to Ireland, would lead us to imagine that he had transmitted a copy of King John's charter on that occasion without attending to any variances then existing in the customs or situation of the two countries, yet on a comparison of those documents, it will be found that in preparing the "*Magna Charta Hiberniæ*" such variances were recognized and provided for by the Crown; this however we should have anticipated, as the charter itself recites that it was granted by the advice of William Marshal Earl of Pembroke, (Lord of Leinster,) Walter de Lacy, (Lord of Meath,) John Lord Marshal, and several others, who as lords of great seigniories and public functionaries in Ireland, were conversant with the laws and customs of that country. Accordingly, some remarkable differences will be found to exist between the two charters; thus, *dower* is minutely explained in the English charter, while in that for Ireland, where a peculiar usage already prevailed, nothing is said about the proportion of the husband's estate which should go to the widow, nor of her estover, nor of any lesser dowers agreed on before marriage. In England the Justices are to be sent through the counties once in each year only, for the administration of justice, while in Ireland it is provided that

Magna
Charta,
Red Book
of the Ex-
chequer,
Chief Re-
memb. Off.
Dublin.

they go four times annually. All cases which could not be decided on account of their difficulty before those Justices in the county courts, are referred by the Magna Charta of England to the Court of King's Bench, but no such power of reference is provided by the charter for Ireland. Those important proceedings for the advowsons of churches are in the latter country to be tried by the Justices in the county courts on their circuits, while in England it is specially provided that they shall *always* be tried before the Justice of the Bench and there determined. In England an exception is made in favor of the King's villein, which is not extended to him in Ireland. Constables in that country also have *forty days* allowed them for payment of provisions taken, while the same officers in England, it is provided, shall render payment for such provisions within *three weeks*. These, with other striking differences relating to periods of limitation, &c. will be found on close inspection of the two Charters.

In the year after he had granted the above charter, King Henry by his writ ordered that Affricia widow of John de Courcy should have reasonable *dower* out of her husband's lands, "*according to the custom of Ireland.*"* In the year

Close Roll,
T. L.
3 H. 3.

* This custom as to dower had always the effect of law in Ireland: thus in the 13th Charles II., in the case of Sir Henry Holcroft it was held by the Court of Exchequer that " Dame Joane late Viscountess Grandison, the relict of the said Lord Grandison, had not issue by her said late husband, and having survived him ought by the *Laws and Customs of this Kingdom* to have had a *moiety of all his chattells realls and personalls* remaininge and undisposed of at the time of his death by any act executed in his life time."—Decr. Roll Ch. Remembr. Off. Dub. 13 Charles II.; and in the case of Lady Charity Eustace, widow of Sir Maurice Eustace deceased, Chancellor of Ireland, claiming a *moiety* of her said late husband's estate " as due unto her the relict of the said Sir Maurice, who died without having issue by (her) the plaintiff, by *virtue of an Auncient Customary Law in this Kingdom*" it was held by the same Court, in Michaelmas, 21st Charles II. that " the *saide Custom be and is allowed of by the Court to the Plaintiffe*, and that the Defendant's said plea is and doe stand overruled."—Decree Roll Ch. Remembr. Off. Dub. 21 Charles II. Notes of these two Decrees happen now to lie before the Author, otherwise he should have contented himself with referring generally to the Court Rolls for proofs that this custom prevailed.

CloseRoll, following, he grants permission to the citizens of Dublin that
 T. L. Fitzhenry their debtor may be "*distraigned according to the*
 4 H. 3. *custom of Ireland.*" Soon after he issued the writ already
 CloseRoll, noticed, whereby in districts where the Irish resided, it was
 T. L. decided that *bounds* should be made, "*according to the cus-*
 7 H. 3. *tom of Ireland.*"

As the phrase "according to the Laws and Customs of Ireland" becomes of extreme frequency in public instruments after this period, few other records need here be cited: but it is worth noticing that at the period when appeals from the courts in Ireland were brought before the King in England, who decided them *in person*, not only the Statute Law, but also the *Customs of Ireland* were specially pleaded, and by them such questions were decided. This appears by the *Coram Rege* Rolls now in the Chapter House, Westminster, on one of which is the record of a suit brought from Ireland for the recovery of certain lands under the statute passed in Ireland in the 48th year of Henry the Third, pleaded by the plaintiff, but the defendant insisted, that by such Statute it was not intended *to aggrieve him or to dispossess him of the lands of which he was seized* "*according to the laws and customs of Ireland.*" In most of the subsequent appeals to the King, similar pleadings will be found. There is also a patent issued by King Edward the Second of much importance on the subject of the present chapter. In that patent, the King addresses Walter de Cusak and Robert Bagot, whom he had appointed his Justices itinerant to hear and decide pleas of the Crown in the county of Dublin, and he recites that the people there, had *grievously complained* before the Justiciary and Council *that it was prejudicial to them and tended to their disherison that such pleas should be held otherwise than as they were accustomed to be held in times past according to the law and custom of Ireland*; and therefore his Majesty, as was prayed, now wishing to apply a due remedy, and *not willing that the customs hitherto in Ireland rightly used should be changed*, orders those justices that all pleas before them pending in their circuit by virtue of his royal writs, but which could be determined in the Court of

Coram
 Rege
 Rolls, 3,
 4 E. 1.
 Chapter
 House,
 Westminster.

Chief Re-
 memb.
 Rolls.
 Dub.
 3, 4 E. 2.

King's Bench, *according to the law and custom of Ireland*, should be decided in that court, and that all his Royal writs directed to them for that purpose, *contrary to the customs of Ireland, should be altogether superseded.*

It has been already shewn that King John by his ordinance allowed the arms used by his tenantry in Ireland to be substituted for the arms used by his tenants in England, and which the former were bound to provide if the King had not yielded in this instance to the customs of the country: this was a marked acquiescence in the usage of Ireland on the part of John, particularly as the tenants in capite were then really the national militia, and as such state policy had from an early period made their arms the subject of public provisions.

The fines paid as Queen's gold in Ireland varied from those paid in England, as will appear by contrasting the sums mentioned in King Edward's transcript from the "*Dialogus Scaccarii*," with those set forth in King Richard's patent, mentioned in the preceding chapter: hence, the latter King, conscious that an usage had grown up in this respect, orders it to be demanded and paid in the *manner anciently accustomed* in Ireland.

But it would be difficult to specify here every instance where a variance prevailed between the usages of both countries, and so many of which exist even to the present day.

After the usages of Ireland had been recognized in writs, patents, charters, and other public instruments by the Crown, they were confirmed and enforced by Parliament, thus:—in a statute of Edward the Second are the words, "*Salves toutz jours les bones custumes & usages de la terre ;*" and by another act passed in that reign it was enacted that the common law, the ordinances of Dublin and the *good usages of the land*, ("*les bones usages de la terre,*") be held and maintained in every point. After that period Parliament shewed much solicitude for the maintenance and enforcement of those customs, and the reader will find ample information and many extraordinary declarations in the Irish statutes (both published and unpublished) respecting the customs and usages of that country.

Statutes
13 E. 2.
Chief Re-
memb. Off.
Dublin.

Original
Returns
49 E. 3.
Tower of
London.

So soon as the reign of Edward the Third, the inhabitants of the English districts viewed any encroachment on their ancient rights and usages with considerable jealousy: and when writs were issued by that King for the election of Irish members to sit in the Parliament of England, both clergy and laity made an universal declaration, that “according to the rights, privileges, liberties, *laws and customs* of Ireland, *à tempore Conquestus ejusdem et ante*, they were not bound to elect or send any persons out of the aforesaid land to Parliament or councils in England held to treat, counsel, or agree, as the writ requires.”

But in examining the appointments of those representatives of the King who acted as justiciaries, governors, lords lieutenant or viceroys of Ireland, and regulated the whole public concerns of the country, it will appear that from a very early period, the Crown in delegating its authority to those high individuals, paid a proper attention to the usages of Ireland. Thus, in their ancient patents of appointment, during the reign of Edward the Third, the King vests them with the highest powers, but such authority was to be exercised “*juxta leges et consuetudines terræ illius.*”

Patent
Roll, T.L.
3 H. 6.

Afterwards when public rights were more fully developed and cautiously guarded, the language of those documents is still more remarkable. In the patent dated the 1st March 1425, by which Henry the Sixth created James Earl of Ormonde lord lieutenant of Ireland, the King confers on his Viceroy full power to maintain *the peace and the law and customs* of Ireland, with authority to punish offenders, as well against the peace *as against those laws and customs*, by all ways and means according to the laws and customs of that country: to grant pardons, to wage war, and to execute the laws according to the same laws and customs; and particularly to hold parliaments and councils, and summon thereto such magnates and others as according to the custom of the land ought to be summoned, and therein to make statutes and ordinances according to the custom of the same; and to continue, prorogue, and dissolve, &c. such parliaments and councils according to custom, and to do and execute all other things in such

parliaments and councils as “*de jure et secundum consuetudinem prædictam ante hæc tempora rationabiliter fieri consueverint.*” These were the powers given to the lords lieutenant by the Crown of England; and it may be perceived that high and extensive as they were, the exercise of them in each instance was ordered to be controlled *by the laws and customs of Ireland.* Such forms of appointment were used for nearly four centuries; and even at this day, the Viceroy’s patents manifest an equal regard for the laws and customs of that country. In language and in construction of law, the patent of the present chief governor of Ireland affords as positive evidence of usages and customs existing there, and of the intentions of the Crown towards their maintenance and preservation, as even the above patent of Henry the Sixth: and in the oath taken by that high officer when accepting the government, he swears to preserve the realm of Ireland and the peace of its people, and to execute justice there according to the laws, usages, and customs of that realm, so God him “*helpe and Holy Evangeliste.*”

It should also be observed that on reference to the commissions, writs, and other instruments, which appear in the printed Journals of both Houses, it will be found that at least from the period of their commencement, the Parliament of Ireland was invariably summoned and convoked as expressed in such instruments according to the laws, usages, and customs of that country. In the “*Ordinatio pro statu Hiberniæ,*” King Edward the Third ordered that parliaments and great councils be held in Ireland “*prout mos exigit, secundum justitiam, legem, consuetudinem, et rationem,*” &c. and this recognition of the usage and custom of the country was afterwards in the year 1394 recited and confirmed by his successor. Edward the Third also in answer to the petition of the prelates, nobles and commons at Kilkenny, after advising with his Council, as the writ states, ordered that the fees charged by the Marshal in Ireland be assimilated to those charged by the same officer in England, *if the usage of Ireland admitted*; “*si usage de la dite terre d’Irlande le demaunde;*” and on referring to the statute of the year

Chief Rememb.
Roll Dub.
12 Hen. 8.

Patent
dated 27th
February
1828,
Chancery
Roll Dub.
9 Geo. 4.
p. 2.

Chancery
Roll Dub.
1 James 1.

Patent
Roll, T. L.
17 Ric. 2.

Red Book
Chief Rememb.
Off. Dub.
Statute
Roll
Chanc.
Dub.
38 H. 6.

Chief Rememb.
Roll, Dub.
2 Ric. 2.

See Chap.
V.

Charter
Roll, T. L.
2 John.

1460 it will be found that the office of Marshal existed there by *ancient custom*. In the year 1386, Parliament having petitioned the King, it was ordered that no persons dwelling in Ireland for contracts, &c. made out of that land, should be sued by writs from England, that their liberties theretofore used in that respect by the petitioners, should be maintained according to the law and custom of Ireland, and that all proceedings to the contrary should be superseded. But the authority assigned to usage may be inferred from the declaration of law made by the Crown in the year 1377 as to Parliamentary dignities, which are thereby said to be ruled by the law and custom hitherto used in Ireland.

It has been shewn that usages were considered to prevail, and that at a very early period, as to *dower, forfeiture, wardship, distrain, pleas of the Crown, armour, Queen's gold, the holding of parliaments*, &c. and a few words may now be added as to dignities. King John was aware that those great lords who had been created in Ireland by himself and his father, possessed privileges more ample than those enjoyed by the magnates of England. It is unnecessary here to account for this difference, as some of the principal causes must be sufficiently obvious, but important differences did exist, and we therefore find King John immediately after ascending the throne, creating some new barons there and directing such to hold their baronies, not according to the manner of the baronies of England, but to hold them as "*others his chief barons of Ireland more freely hold theirs*," *ut alii capitales barones nostri de Hibernia liberius tenent*." This affords some evidence that a distinction as to the interest acquired in such dignities already existed in that reign; but subsequent writs not only of John, but of his successors Henry and Edward shew, that differences decidedly existed between the rights of the English and Irish barons: and those differences were allowed to exist where not trenching on the King's prerogative. When the Irish baronage entertained suits in their own courts, which belonged to that of the Crown, as they did in the reign of John, and endeavoured to make the chief governor answerable to the writs which

issued from their courts, the King interfered and checked this overstretch of assumed authority ; but in other respects, the rights exercised by the Irish peers were left undisturbed, as appears by several documents. So early as the reign of Henry the Third, while the English nobles were bound, according to the law cited by Sir Martin Wright, to assist the King in his wars, “*intra et extra universum regnum Angliæ*,” we find the Irish barons asserting that they were not bound to attend the King outside the realm, and Henry with his writ of military services sent a declaration, that if so, their attendance on that occasion should not be brought forward as a precedent. This, however, was only one of the peculiar rights claimed by the Irish barons, who possessing so much weight with the Crown, and afterwards in the legislature, became the least likely class of subjects to have their usages or customs contravened.

Law of
Tenures,
Chap. II.

Close
Roll, T. L.
28 H. 3.

Usages as to dignities therefore continued to exist, and to receive the approbation of the Crown : hence, after creations of peers by patent came into practice, we find a clause was necessarily inserted in all such patents whereby the King granted that such peerages, whether baronies, viscounties, or earldoms, should be held and enjoyed as fully, and according as similar baronies, viscounties, or earldoms were held or enjoyed by others the barons, viscounts or earls of the kingdom of Ireland. “To have and to hold the said name, stile, title, honour, and dignity of Lord, &c. to him and the heirs males of his body begotten and to be begotten, with all rights, privileges, preheminences, prerogatives, allowances and immunities of a lord, &c. of that kingdom (of Ireland) in as large, ample and beneficial manner as any other lord, &c. of that realm doth or ought to hold or enjoy the same.” This is the usual clause in the King’s letters for creating Irish peers, and has been so for more than two centuries, and when the law officers prepared the patent the following words were always inserted :—“Also that the said lord, &c. and his heirs male aforesaid and every of them may enjoy and use within the said kingdom of Ireland, by the name of lord, &c. aforesaid, all and singular such rights, privileges, prehemi-

Customs and Usages of Ireland.

rights, and immunities to the estate, honour, and dignity of lord, &c. in all things, rightly and lawfully appertaining, as others the lords, &c. of our said kingdom of Ireland heretofore better and more honourably and quietly have used and enjoyed, or at present now use and enjoy." These clauses are invariably to be found in all creation patents passed in Ireland since the end of the 16th century, and by them it was intended that all the rights peculiarly attached to the dignities of that country should be comprehended.

But in the reign of Queen Elizabeth, who devoted more attention to the laws and other circumstances of Ireland than any of her predecessors, it was perfectly understood, that the dignities of that country were governed by customs or laws, different from those prevailing on the same subject in England: in consequence, when John de Burgh repaired to the Queen, and claiming the earldom of Clanrickarde, in which was merged the ancient feudal barony of Glenrickard, prayed that the Earl should be called into England to answer his claim, the Queen ordered the said John to return to Ireland, and further ordered that as the Earl is a good subject, he shall not answer such claim here but only according to the laws of Ireland.

There is one, however, of those laws or customs affecting dignities, which has long been observed in Ireland; this usage should have been introduced here, but as it presents a remarkable contrast to the laws of English dignities, and prevails to the present day, its importance merits full and distinct consideration in another chapter of the present work.

What
the
Queen
ordered
the
said
John
to
return
to
Ireland

now Chap.
VIII

CHAPTER III.

LEGISLATIVE INSTITUTIONS INTRODUCED INTO
IRELAND.

THE reader has seen that within thirty years after the first settlement made by King Henry the Second in Ireland, the Crown sanctioned certain customs which had been established there by its subjects. This early recognition of a power, however limited, in the new settlers to prescribe or adopt rules for their own better government, would lead us to expect that the public councils or general assemblies, so necessary under the Common Law and Feudal Institutions, would soon develop their tendency to more general authority, and make speedy approaches to the forms and privileges of modern parliaments. The expectation is justified by the facts, and we find proofs of parliaments being held in Ireland at a very remote period.

In tracing the origin and proceedings of those ancient parliaments, the author had to regret that the materials collected by former writers were few and defective. Amongst the earliest of those was the learned Primate Usher, who made notes of some parliaments, as appears by his manuscript in the Archbishop's library at Lambeth: those notes, however, contain scarcely any data before the reign of Edward the Second, and seem chiefly taken from annalists or chroniclers of doubtful authority. Darcy followed, but the work of this learned writer, perhaps from his inability to approach official authorities, exhibits little information as to the history of those parliaments. After much light had been thrown on the obscurer parts of early British History by the publication of many authentic records, Mr. Molyneux brought forth

his "Case of Ireland," which he dedicated to King William the Third; and in this volume, while endeavouring with considerable talent to establish the paramount authority of his native parliament, Mr. Molyneux adduces some valuable documents connected with the history of the Irish Legislature. He was followed by Mr. Lodge and Dr. Lucas, by whose means the curious misprint or falsification in one of our printed statutes was discovered. After them Dr. Leland added to his history some interesting information, chiefly supplied by Mr. Lodge; and it is remarkable that he cites the statute 38 Hen. VI. which Mr. Molyneux omitted to notice in his work. The subject was lately again treated of by J. H. M. Mason, Esq. in his "Essay on the Constitution," &c.; and it remains to be wished that instead of resting so much on authorities long before the public, Dr. Mason had favoured us in his work with some of those *original legal* records which his peculiar pursuits and means of information would induce his readers to think he had discovered. Indeed, it is difficult to suppose that as an officer engaged under the Crown for an enquiry into ancient statutes, he could be ignorant of any of the documents cited in the following pages: but it is clear that many of the most important records are not to be found in his "Essay," while the zeal for his subject, and the ability with which he enforces the authority of less decisive documents, naturally convince us that they were not intentionally omitted in that publication. The above are among the principal writers who have treated of early Parliaments in Ireland; and as they chiefly wrote with a view to some disputed point, they have supplied us with but few and defective materials for a connected and detailed account of the origin and acts &c. of that assembly.

The Author was also aware that while the writers just named made laudable efforts to establish the antiquity of those parliaments, others were not wanting who advancing opinions of an opposite tendency made such an impression as the present work must have to encounter. Amongst this latter class may be reckoned Sir John Davis, who has undoubtedly exhibited in his works much ancient research, but

who, chiefly actuated by a feeling of servile flattery towards his patron James the First, withheld from his readers all proofs that early parliaments had been held in Ireland, lest that fact might diminish the glory of his Royal patron. Serjeant Mayart, in some years after, is said to have written the "Answer" to Darcy's Declaration, both which works will be found published by Mr. Harris in his "*Hibernica*." In his Answer, Serjeant Mayart perhaps under the circumstances was justified in replying to his more popular opponent with all the subtlety of an advocate secretly conscious of an untenable case; and that he availed himself of this privilege to an extraordinary latitude is most manifest. In the first place he adduced many acts of state declaratory of Common Law, as well as many ordinances, charters, &c.; and these he confidently gave his readers as parliamentary enactments: finding his adversary unable to prove the existence of the Irish statute 13th Edw. II. by which the English statutes of Merton, Marlebridge, &c. were made and accepted as law in Ireland, he ingeniously denies that such a statute had ever been passed, although from his intimate acquaintance with the records of the Chief Remembrancer's department he must have been conscious that such an act in his time was to be found in that office, where it remains to the present day. The many early statutes and other proofs of legislative authority which he must have perused also in the same department, it was natural he should likewise deny or suppress; and the evidence afforded by the Judgement Rolls of the Courts in Ireland, which contain instances of English statutes not being allowed or admitted as valid until documentary evidence was given that such statutes were re-enacted by the parliament of that country, he in the same manner totally withheld. But making every allowance to Serjeant Mayart for his mode of arguing a subject at that time of such magnitude, it is impossible to conceive how he could calculate so largely on the ignorance and credulity of his readers as he has done in one extraordinary instance: it appears that in England about the middle of the fifteenth century, grants from the Crown of

Att'y General v.
Ball, Chief Rememb.
Roll, Dub.
13, 14
Eliz. &c.

offices, lands, &c. were frequently antedated to the prejudice of the King, and the people, wherefore by the statute 18 Hen. VI. ch. 1. it was provided that in future the King's warrant (in Ireland called a Fiat) for every grant, should be entered of record in the Chancery the day of its delivery to the Chancellor, and that the letters patent for such grant, when prepared by the Chancellor pursuant to the warrant, should bear date the day of the delivery of the warrant into Chancery, and not sooner.

In consequence of this statute, to all grants from the Crown, a note was added by the proper officer under the *teste* or date of the patent in these words—"Per breve de privato sigillo et de dat' predict' autoritate Parliamenti," importing that such grant was made by the King *by writ of privy seal and of the date aforesaid (as directed) by authority of Parliament*: and thus the mischief complained of in the above act was remedied, and all future deceit obviated. Now this statute was re-enacted in Ireland by the 37th Hen. VI. and it would be doing injustice to the learned serjeant to presume him unlearned in the *printed* statutes, or unacquainted with the forms of such important instruments as royal letters patent; yet certain it is that having lighted on some patents with the above note annexed, he cites them as positive proofs that the King's grants in such instances were made by the authority of Parliament. Many other arguments almost equally groundless will be found in his work, and it is strange to observe that several of them remain uncontroverted to the present day: even the author of the "Essay" already mentioned, who is not only the latest but the most perspicuous and zealous modern writer on the subject, has left several of them undetected: should we wonder therefore that the Answer to the Declaration soon after had its weight with those to whose passions and interests it was addressed, and that the principles it laboured to establish should so far prevail as ultimately to appear in the writings of some of our most esteemed English authors? Even the highest and most solemn tribunals seemed to be influenced by its arguments, and the extraordinary resolutions made by the

Parliament of England in the months of May, June, and July 1698, were but the result of its mischievous and numerous mistatements; to that work also, and to the above resolutions, may be traced the statute 6th Geo. I. which continued in force for several years. But the opinions of Sir John Davis, Prynne, Serjeant Mayart, &c. have been revived within our own time, and that in a work where we should least have expected to find them. That work is the new edition of the English Statutes, in the Introduction to which is given a list of the Statutes *passed in England, and afterwards promulgated in Ireland*. It is only right however to state, that the writer of the Introduction has shewn but little acquaintance with the ancient Legal History of Great Britain: he has not displayed to his readers much knowledge of the nature of Ordinances; he has not told us how long, or on what subjects those Ordinances were considered to be Law, or at what period they wholly yielded to regular Legislative authority, either in England or in Ireland. In the work itself we have the "*Statutum Hiberniæ*," perhaps as a declaration of the Common Law of England in the reign of Henry the Third; but the various other ordinances or declarations of law, made both before and after that period on subjects equally important, are wholly omitted. Those defects could have been remedied by due research through the original rolls in the Tower and elsewhere, and it bespoke little discretion in any individual to undertake writing an Introduction to the Statutes of England, without first being qualified to supply such necessary data. It is needless perhaps to add after this, that the "*Statutes*" which he adduces as passed in England and promulgated in Ireland are for the most part Royal Ordinances, and that none of them appear later than the reign of Edward the Third, when several branches of the prerogative were still unrestrained by Parliament in England and Ireland: many of those ordinances were for the guidance of Judges and other officers peculiarly under the authority of the Crown, and some of them such as the King or his ministers might issue at the present day without invading the privileges of Parliament; but almost

Journals
House of
Lords of
England,
21 May,
20, 22, 27,
30 June,
and 2 July
1698. See
also Life
of Swift
by Sir
Walter
Scott,
p. 277.

all are in *Charter* or *Patent form*, as emanating solely from the Crown to its subjects in Ireland. Such are the English laws promulgated in Ireland with scarcely more than two exceptions, and those two require some special notice. The statutes alluded to are those generally called the Statutes of York and Lincoln; and though they were passed to remedy "great damages and disherisons" suffered by the people of England and Ireland, yet those acts so beneficial for the subject were not transmitted into Ireland until some years after their enactment. The writs cited by the writer of the Introduction prove this fact, though the reason of such delay is not assigned; it was simply this—the authority of parliaments had been fully developed in the reign of Edward the Second, and the sanction of the Irish Legislature became of course absolutely necessary before any public instruments could obtain the force and authority of statutes: an act was therefore passed in Ireland in the 13th of Edward the Second, whereby it was directed that certain English statutes therein named should be observed in Ireland; and also that *the OTHER STATUTES made in England* by that King and his Council, if on due *examination* they proved *fit for the people* of Ireland, should be confirmed and adopted in the next Parliament. The next Parliament afterwards held in that country was in the 16th year of Edward's reign; and as those statutes were extremely beneficial, they were then confirmed and adopted, and accordingly the statutes so approved of by the Irish Parliament were promulgated on the 4th of May following by the King's writ to the Chancellor, which writ will be found in the Red Book of the Exchequer, Dublin. The above enactment ordering certain beneficial English statutes to be read and *examined* before being received as Law in Ireland, and that so early as the year 1320, has been wholly overlooked by the writer of the Introduction, although his researches extended to the department where that statute is preserved; so also have been all the earlier Irish statutes, and every other ancient record tending to clear away the errors with which the early parliaments of Ireland were heretofore obscured. In their place, it must be confessed, the

writer has given us the *title-pages* of some former editions of the printed Irish statutes; but in this age of enquiry, when full and original information seems expected on every subject, and above all, on matters connected with Legal records, it is feared that such specimens of the Editor's research will appear but a poor substitute for that documentary and authentic information which he either did not possess, or has intentionally withheld from his readers.

Under all those circumstances, being but too well aware that an impression extremely erroneous had already been made as to the parliaments originally held in Ireland, the Author found it necessary in the present chapter to go into a more minute detail, and to cite more numerous records than he otherwise would have deemed requisite: in doing so, still the reader will observe that he has not entered into those questions which some of the above-named writers heretofore discussed; nor has he introduced the subjoined documents relating to parliaments with any other view than to elucidate by their aid the existence and proceedings of the Feudal Baronage of Ireland. For that purpose principally those records have been collected, and it is hoped they present full evidence that General Assemblies, Public Councils, or Parliaments, were held at an early period by the Baronage of that country, and that the right of Legislation was enjoyed by that Baronage with the other incidents to their Dignities. Any thing beyond establishing this, the Author could not attempt within the limited scope of the present work; but at the same time he must confess, that in selecting materials, he has always preferred those documents which appeared illustrative of the general origin, proceedings and peculiarities of such ancient Legislative assemblies. Should the reader in those details meet with information not easily reconciled to the expressed opinion of some eminent writers, or should he find that the third Estate had legislative rights, and formed part of the Legislature of Ireland some time before that body obtained, or were allowed a similar privilege in England: in fact, should he discover that parliaments as now and for some centuries composed in the latter country, had a prior

existence in Ireland, he must only revert to, and more minutely consider, not only the circumstances under which the first settlement was effected in Ireland, and the bearing and pretensions of the settlers, but also the character of the times and the peculiar situation of the Crown during the greater part of the thirteenth century. This however is but incidentally noticed here, as not so immediately connected with the origin of the Baronage; and those who would follow up such comparative history of the two legislatures, will derive from the records hereafter cited, as well as from others which the limits of this work have unavoidably precluded, many curious data.

It may perhaps also be worth observing, that although in the fullest and most authentic history of English parliaments which has yet appeared, namely, the Reports of the Lords Committees on the Dignity of the Peerage in England, besides extensive research through legal documents, almost all the national historians have been consulted, and their evidence occasionally adopted; yet in the following chapter on the Legislative Assemblies anciently held in Ireland, from the doubts, contradictions, and mistatements already existing, the Author felt precluded from the advantage of so high a precedent, and confined himself within the limits of authentic Legal records. Even however under this restriction, and after being obliged to omit many evidences of much importance, he trusts that the subjoined collections will prove the existence of a Baronage with full Legislative rights at a most remote period in Ireland.

HENRY THE SECOND.

By the concurring testimony of many public statutes made on various occasions, and some of them dated so early as the beginning of the fifteenth century, it appears that parliaments have been held in Ireland during and since the reign of King Henry the Second, or as some of those statutes express it, *from time immemorial* and from the first *acquirement of that country*. Scarcely had two centuries elapsed after that King's

death, when the Prelates, Magnates and Commons in Parliament assembled, by a written instrument, which was exemplified under the great seal by the King on the 23rd of June 1383, declared as to the necessity of the Lord Lieutenant or Chief Governor being present in such assemblies, that *from the time in which memory runneth not, and from the acquirement of the said land*, it was never seen that Parliament had been held without the personal presence of him who was the Principal Governor of the same for the time being: this remarkable declaration, which was approved of by the Crown, is only cited here, however, in consequence of its extreme antiquity; and the statutes referred to will be found to contain language of a more decisive construction, such indeed as must establish the fact. In the absence of any regular Parliamentary rolls or journals, it fortunately happens that one enactment of those ancient assemblies has survived the wreck of nearly all the records of that reign: the enactment alluded to is the "*Statute of Henry Fitz Empress*," as it is termed, made for the election of a Chief Governor, when that important officer should happen to vacate his office; and to obviate the danger arising in the new settlement from such an occurrence, it was thereby provided that the Chancellor and other officers whose names are specified, should, *with the assent of the Nobles of that land*, have power to elect a Governor on such an occasion. Under this statute elections were afterwards made in different instances when a vacancy occurred; and so necessary were its provisions considered for the situation of the country, that after about three centuries' experience, the statute was recited, confirmed, and re-enacted in a Parliament assembled in the second year of King Richard the Third, and from that time continued to be the Law of Ireland until it was altered by some modern statutes.

With such a record still existing, it would be needless, if even allowed, to cite those British historians of the twelfth and thirteenth centuries, who have left us fuller particulars of the Parliamentary proceedings in Ireland during the reign of King Henry the Second.

Black
Book,
Christ
Church
Cathed.
Dub.

Statute
Rolls,
Dub. 19,
29, 32,
38 H. 6.
&c.

Statute
Roll,
Dublin,
2 Rich. 3.

Hovenden
Gir. Cam-
brens.
Mat. Paris,
Brompton.

KING JOHN.

Patent
Roll, T. L.
3 John.

Ch. Roll,
T. L.
5 John.

Pat. Roll,
T. L.
6 John.

Close
Roll, T. L.
7 John.

In the reign of King John we have frequent instances of the Parliaments or Public Councils. On the 2nd of November in the 3rd year of that King's reign, he addressed writs to the *Barons of Meath*, requiring them to give faith to what Meiler Fitz Henry his Justiciary or Chief Governor, W. de Burgo, and Geoffry de Constantin should say to them on the King's behalf. On the 10th of February in the 5th year of his reign, the same King issues his writs to the *Archbishops, Bishops, Abbots, Priors, Archdeacons, and Clergy*, the *Earls, Barons, Justices, Sheriffs, Knights, Citizens, Merchants, Burgesses and Freeholders*, and all other his faithful in Ireland, acquainting them that an *Aid* had been granted him in England, and praying them to grant him, "non consuetudinarie set amabiliter," a similar Aid in this moment of his necessity, as the Justiciary of Ireland, Walter de Lacy, and others, whom he sends over, will declare to them. To obtain an extraordinary Aid like the above was the principal cause at that period of convoking full parliaments; only in the "commune concilium" could such supplies be granted; and King John bound himself by Magna Charta to summon to such parliaments his greater Barons by special writs, and the smaller Barons, &c. by writs to the Sheriffs, nearly in the manner practised at the present day. This Parliament was held and the Aid granted, as appears by the King's writs to the "Barons of Leinster," and also to "all his faithful in Ireland," returning thanks for their assistance. Afterwards in a writ respecting the celebrated John de Courcy the King issues orders that that nobleman be summoned to attend him in England agreeably to the oath he had taken, and for which a competent time had been appointed by the *Council of his Barons and faithful of Ireland*. In the 7th year of his reign, the King acquaints the Justiciary of Ireland that he sends to him Hugh de Lacy Earl of Ulster, in whom he may confide concerning the affairs of the King and the peace of his land: and he commands that officer not to wage war unless by the counsel of *Walter de Lascy and of the same Hugh his brother and of the others his faithful*, whose fidelity and

service he might know to be necessary for the purpose : and if by their counsel, war should be waged in Ireland, then the Justiciary was to apply the King's money according as he saw a necessity, and as they *should advise*, &c. Soon after, by another writ to the Justiciary or Chief Governor, he tells him he sends over Philip de Wigornia and two others to view the state of Ireland and “*ut intersint conciliis vestris et negotiis nostris expediendis* ;” and therefore he commands that they be called to those councils. In that year also he made known to the Justiciary, &c. and to all others his Barons and faithful in Ireland, that “*ad voluntatem et consilium*” of his beloved and faithful Earl William Marshal, Walter de Lascy and others his Barons of Ireland, who were with him in England, and by the counsel of his faithful of England, he willed and ordained that robbers be expelled out of Ireland, and that they and their receivers be judged according to the Laws of England. When the King visited Ireland in the year 1210, he held a Parliament there, at which it was ordained by the *common consent of all*, that the English laws and customs should be observed in that country. It was at that period also the tenants in capite prayed his Majesty to specify the time and manner of rendering those military services which were due to the Crown out of their estates ; and King John ordered that such services should be done when Escuage or Royal service was proclaimed, viz. when the King by *common council of his tenants* should fix a day and place on warning of forty days at least. Amidst John's contentions with his Barons in England, he forwarded two letters to the Bishop of Norwich, then Chief Governor of Ireland, and William Earl Marshal Earl of Pembroke, who was Lord of Leinster ; in these letters he returns his thanks to the Bishop and Earl, as he says he had already done to his Barons and faithful subjects of Ireland, for their fealty and good service to him : he expresses himself grateful for the Earl's offer to go over to him to England, but cannot accept of it, as he has heard that the *counsel, aid, and presence* of the Earl were so essential in Ireland. He then notifies that he encloses a transcript of certain let-

Close
Roll, T. L.
9 John.

Pat. Roll,
T. L.
9 John.

Pat. Roll,
T. L.
18 H. 3.

Blk. Book,
Archd.
Dub.

Close
Roll, T. L.
14 John.

ters patent which the Magnates of England had executed for him, and he requests the *Bishop and Earl, with his other Barons of Ireland*, to affix their seals to similar letters for him: but as to their advice to him to make peace with the Church, he commands that it be provided by the COMMON COUNCIL of his faithful of Ireland under what form (his Royal right and liberty untouched) such a peace can be accomplished, and that the form emanating from their council be made known to his Majesty.

HENRY THE THIRD.

Close
Roll, T. L.
2 H. 3.

On the accession of Henry the Third, writs were issued on the 16th of April to the King's "beloved and faithful the Barons of Ireland" respecting Henry Archbishop of Dublin, whose presence was so necessary to the King in England that he declares himself scarcely able to dispense with his counsel; yet he is obliged to send him over that he may visit his church and attend to the state of Ireland; and his Majesty therefore commands that the Barons, together with the Justiciary of Ireland, should assist the Archbishop in all things *to be ordained and settled* belonging to the King, and that all such should be ordered by the same Archbishop with the *aid and counsel of the Justiciary and Barons of Ireland*. In the following year King Henry orders a *Talliage* to be imposed on the cities, boroughs, and demesnes of the Crown, and that the kings of Connaught, Thomond, and other the kings of Ireland, as well as the Barons and Knights holding of the King in capite, should also impose the same.

Close
Roll, T. L.
12 H. 3.

By a writ dated the 12th of May, in the 12th year of his reign, the King orders the Justiciary that *on a certain day and place he should convoke the Archbishops, Bishops, Abbots, Priors, Earls and Barons, Knights and Freeholders*, and the Bailiffs of every county; and that he should cause to be read before them the charter to which King John affixed his seal, and which he caused to be sworn to by the Magnates of Ireland, concerning the observance of the laws and customs of England in Ireland, and that he cause the same to be observed and proclaimed through each county.

In the 28th year of his reign he ordered the Justiciary to cause equal weights and measures to be used throughout Ireland; *he first however convoking a Council of all the discreet Burgesses of that land*, “convocato prius consilio discretorum omnium burgensium de terrâ nostrâ Hiberniæ.”

Close
Roll,
28 H. 3.

In the next year Henry applies to the Justiciary for wines, corn and bacon for his army against the Welsh, and he requires him to certify the quantity of those provisions and the number of men he can send, and those men the King promises to make participators in his conquests: he commands him therefore to have a *conference with the Magnates of Ireland singly and collectively*, so as to learn their intentions as to a subsidy for the war, and to ascertain the other particulars mentioned in the writ.

Close
Roll, T. L.
29 H. 3.

In the 37th year, writs were also addressed to the Archbishops, Bishops, Abbots, Earls, Barons, Knights, and all Freemen of the land of Ireland, for an Aid to make the King's eldest Son a Knight, and for another Aid towards marrying the King's eldest Daughter. In those writs the King beseeches them to grant such an Aid on the present occasion as that he and his heirs may be held prone and inclined to their honour and wishes for ever.

Chart
Roll, T. L.
37, 38
H. 3.

In the year 1253 another writ was addressed to the Archbishops, Bishops, Earls, Barons, Knights, and all other persons “*cruce signatis*” in Ireland, declaring that he the King had sworn to his voyage to the Holy Land, and therefore commanding them to assemble themselves at a certain day and place, and there ascertain and certify to him how many and which of them will personally accompany him, so that he may have safe shipping provided for their voyage to the Holy Land.

Pat. Roll,
T. L.
37 H. 3.

In the next year a writ issued to Maurice Fitz Gerald respecting the army of Christians and Saracens who were hastening to the invasion of the King's dominions in Gascony, and who would thereby obtain an entry into England and Ireland: for this reason he is desired to come with all his friends to the King in Gascony, so that they be at Waterford against Easter ready to embark with horses, arms, and

Close
Roll, T. L.
38 H. 3.

soldiers, for never in future times can their *aid and counsel* "consilium et auxilium," be so required as at present. To explain to him more fully the King's situation, John Fitz Geoffrey is sent over as Justiciary, and with him *and the other Magnates of Ireland*, to whom the King has sent, Fitz Geoffrey is ordered *fully to treat* of the premises in Dublin at the time therein specified.

On the 2nd of February following after the King had left England, writs issued to the *Archbishops, Bishops, Abbots and Priors, Earls, Barons, Knights, and others the faithful of Ireland*, whereby Queen Alienora acquaints them that she had sent over John Fitz Geoffrey, Justiciary of Ireland, to explain to them the state of Gascony and imminent dangers of the Crown, and to treat with them for an Aid to be granted against the King of Castile, who intended entering Gascony next Easter. In a fortnight after this, another writ issued to the Prelates and Magnates above mentioned, as also to *the Freeman, Citizens, and Burgesses of Ireland*, stating that Nicholas de Sancto Neoto, prior of Saint John's of Jerusalem in England, was now sent with John Fitz Geoffrey, the Justiciary, to lay open to them the state of the King, and of his land of Gascony, which the King of Castile, in no other right than that of force, was endeavouring to wrest from the Crown of England; and therefore, not deserting the Crown and its rights at such a time, they are affectionately requested to go over with all possible men and money to the defence of the said land, a measure which they are thereby told will redound to their eternal honour.

Pat. Roll,
T. L.
38 H. 3.

On the 30th of July in the next year, the King addressed letters to his son Prince Edward, afterwards King Edward the First, on whom he had conferred the dominion of Ireland; and after reciting some complaints made by the Clergy as to certain infringements on their ancient liberties and rights, originating in the conduct of the King's officers and the nobility, he commands the Prince then in Ireland to *convoke before him the Archbishops, Bishops, Abbots, Barons, Justices, and other Magnates*, by advice of the Justiciary and of other discreet persons of his Council, and with the advice of those

Magnates to apply speedily a proper remedy on this subject, such as they will see calculated for the safety of the Church and for the benefit and tranquillity of the land.

Close
Roll, T.L.
39 H. 3.

While Prince Edward had the government of Ireland, a Parliament was called, and one of the statutes passed in that Parliament is still preserved by recital. This statute was pleaded before Edward, after he had ascended the throne of England, in the following words by Geoffrey de Prendergast, who obtained judgment thereon:—"And the said Galfrid says that he did not disseise him, and that the assize ought to proceed, because he says that in the 48th year of the reign of the late King (Henry the Third), after the disturbance of the land of Ireland, it was provided by the Council of Lord Edward and the Community of the whole land, that each person should recover his estate in lands, tenements, castles, wardships, goods and chattels, as the same were on the day of Saint Nicholas in that year," &c. This Parliament assembled in the town of Castledermot, as appears by the Black Book of Dublin archdiocese.

Coram
Rege
Roll,
4 E. 1.
Chapter
Ho. West-
minst.

Another statute was passed in the 53rd year of Henry the Third, and the language of it deserves attention. "*Provisum et statutum est de consilio Domini R. de Ufford Capitalis Justiciarii Hiberniæ, et aliorum fidelium Domini Edwardi, qui sunt periti de ejus concilio, et DE CONSENSU OMNIUM MAGNATUM ET TOCIUS COMMUNITATIS HIBERNIÆ.*" The statute then proceeds to ordain that a similarity of weights and measures should be observed throughout the kingdom, —a regulation, it should be observed, that seems to have been enforced in England almost solely by the King's authority. A well-executed fac-simile of this record, from the original Roll now in the Castle of Dublin, was lately published by the House of Commons.

It must be observed that there are records of other public Aids in men, money, and provisions required and obtained by King Henry out of Ireland, though the Author has not had an opportunity of collecting the writs for convoking the parliaments by which those Aids were granted. In the year 1232 the King applied to Maurice Fitz Gerald, the Chief

French
Roll,
T. L.
16 H. 3.

Pat. Roll,
T. L.
28 H. 3.

Pat. Roll,
T. L.
29 H. 3.

Governor, apprizing him that he intended to continue in foreign parts, and much required a potent Aid in men and money; and therefore his Majesty commands him to raise in Ireland 100 knights, 200 horse, and 1000 foot, and send them over speedily with all the money he might be able to procure. In the year 1244 by writs from St. Alban's, Henry addressed the *Earls, Barons*, "*probis hominibus*," and *Community* of Ireland, declaring that the service he required of them, to come over and join his army, should not be in future time prejudicial to their liberties, if it after appeared that they were not bound to render such service out of Ireland. The Aid then sought, we find, was granted, as there is a writ dated from the Camp on the 21st of October in the next year, ordering payment to be made to the 3000 foot soldiers from Ireland who attended with the Justiciary in the King's service at Garmok. There are many similar entries to be found; and King Henry appears to have frequently obtained the most ample aids and supplies from Ireland.

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Fine Roll,
T. L.
3 E. 1.

of William Valence Earl of Pembroke, Gilbert de Clare Earl of Gloucester and Hereford, Roger le Bygod Earl of Norfolk Marshal of England, Roger de Mortimer, Thomas

de Clare, John de Vescy, John Fitz John, Theobald de Verdun, Richard de Rupella, Otto de Grandison, Emerick de Rupe, and Eudo la Zuche, certifying that they had made the grant already mentioned in the English parliament, and that now at the request of the Merchants they granted that King Edward should have *in all their ports in Ireland* the same Customs on wools and skins thereout exported, *saving however to themselves* the forfeiture of all such merchandize as passed through their fees or liberties without paying those Customs to the King, and so that in all their ports where the King's writs had not currency two of the more discreet and faithful men of those parts should be elected, and should be sworn to arrest such merchandize until, &c. Certificates duly signed and sealed by the above noblemen in the "General Parliament at Westminster," the King forwards to his Justiciary in Ireland; and as many of the towns then sending members to parliament, not only were situated within liberties or seigniories where the King's writs ran not, but also were daily obtaining further corporate immunities and privileges by the charters of those great Lords above named, the King's object, it is evident, must have been considerably facilitated by promulgating the example of so many of the more influential Magnates of Ireland. Notwithstanding the language of those Certificates, and the high authority of the Lords of liberties at that period, still it appears the Crown considered such grants as incomplete or ineffectual without the concurrence *of all*: hence King Edward enclosing the form of the Grant made to him in England, as well as the Certificates of certain of his Magnates of Ireland, commands the Justiciary that *by such means as he might see expedient, he should induce the Archbishops, Bishops, Abbots, Priors, Earls, Barons, Commons and Merchants* of the said land, to grant to the Crown a similar Custom to be taken in Ireland in the same form. Accordingly, their consent was obtained to this grant, as we find those foreign merchants named in the above writs immediately after receiving the customs of wool and peltry in the different ports of the kingdom; but it is worth remarking, that some eminent

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Chief Rememb.
Roll. Dub.
6, 7 E. 1.

de Burgo Earl of Ulster, and the other Magnates, pardon is granted to Walter le Poer, of all, &c. ; and the charter for that purpose is delivered to Eustace le Poer, that it may be kept in an *equal hand*, so that if his conduct be not good hereafter, &c. The petition being heard of Richard de Burgo Earl of Ulster, for restitution of the wardship of the lands and heir of Adam de Staunton, who held of the said Earl in Connaught, &c.—The Seneschal of Kilkenny prays delivery of the nine hogsheads of wine seized at Kilkenny for the King's use ; and it is granted, he undertaking to carry them to the Marches of Scotland, as provision for his lord the Earl of Gloucester, who is going there in the King's wars.—It is agreed that no money be carried out of the country without special warrant, and that no one land but in the right ports, &c.—It was agreed by the council, that John de Hothum and Thomas de Kent, who were sent to the King on weighty affairs, should have twenty marks for their expences in going, tarrying, and returning. It was also agreed to resist the malice of the O'Tooles, that an increase of thirty horsemen and eighty foot be placed in the castle of Castlekevin.—It appearing by the King's letters that the wines sent to him out of Ireland were bad, mixed, and for the greater part putrescent ; an enquiry is now here made as to the facts on the oaths of merchants, who find that those wines were shipped at Bourdeaux about the quindene of Michaelmas, and were after the feast of All Saints landed at Dalkey, whence they were conveyed in another ship to Skynburnesse, and this latter ship was by tempests thrown here and there until the Epiphany of our Lord, when the wines were landed, and this was the cause of the deterioration of those wines, which was not owing to any mixture, nor any default of the mariners or merchants.—It is agreed that Murthuth O'Burne have that moiety of the lands of Glenfeil which Magnus O'Toole received from John de Saunford, Archbishop of Dublin, and which Richard, son of the said Magnus, though outlawed, now holds ; *and be it known that this grant is made, that thus dissension may arise between the said septs.*—The Friars minor of Ross petition for delivery of twenty oaks which they by permission of

Chief Rememb.
Roll, Dub.
28 E. 1.

Chief Rememb.
Roll, Dub.
35 E. 1.

Roger Bygod, late Earl of Norfolk, Lord of Carlow, had caused to be cut in Polmontagh; and it is agreed that the Sheriff deliver the same.—The petition being heard of Johanna de Valence, Lady of the liberty of Wexford, that she as one of the coheirs of Walter Marshal, formerly Earl of Pembroke, might have her portion of the inheritance of the said Walter, the cognizance of all pleas belonging to justices and sheriffs, as well of the men and tenants of Roger le Bigod, late Earl Marshal, deceased, as of others within her said liberty, and all which she enjoyed until by the death of the said Earl his estates came into the King's hands, whose Escheator would not permit such tenants to answer the officers of Lady Johanna: it was thereupon agreed and granted, that she may enjoy the same as in times past until Michaelmas, giving security to be accountable for the proceeds, unless in the mean time, &c.—It is granted by the Justiciary here, and by the Council of the King, that Robert Bagod (ancestor to the Viscounts Fitzwilliam of Merrion, and of the respected family of Bagot of Castlebagot) may be able to convey to William his son and heir the Manor of Dundrum, to hold of the Lord the King in capite by the services due thereout; and the charter thereof was produced in these words, &c. “And be it known that the said William thereupon rendered fealty to the King, &c.—The truth also being understood of the alienations and destructions made of the estate of the Abbey of Magio by the Abbot thereof, chiefly through hatred of the English language, and with a view to prevent English monks from dwelling there as they were accustomed, it is agreed that the sheriff seize all such lands alienated, and keep the same in the King's hands until the coming of the Justiciary,” &c.

Such are some of the entries to be found amongst the “Pleas of Parliament” during the reign of Edward the First; and it is easy to perceive, that in Ireland, as in England, those powers now properly divided between the Legislative, Executive, and Judicial authorities, were exercised at that early period by the King and his Council (private or

general, as the case might have been) in full Parliament assembled.

On the 10th of June, in the 8th year of his reign, King Edward requires the Archbishops, Bishops, Abbots, Prelates, Earls, Barons, Knights, and all others the English of Ireland, to meet at a certain place and time by them agreed on, and have diligent treaty amongst them, whether it would be prejudicial to them, their liberties or customs, should he grant the English laws to the Irish people; and afterwards to certify to him under the Justiciary's seal the result of such meeting, together with their advice.

Pat. Roll,
T. L.
8 Ed. 1.

Pat. Roll,
T. L.
8 E. 1.

In two years after, the King, much requiring money, as he says, for his wars against the Welsh, directs Thomas de Clare to have a "colloquium et tractatum" with the Abbots, Priors, and other Religious, the Citizens, Burgesses, Merchants, and Commons of the cities, boroughs, and mercantile towns of Ireland, (and with the others whose names are enclosed, the Peers,) as to a loan of money for the King separately or jointly to be made by them. The King then addressed other writs to the Abbots, Priors, and all the Religious, the Sheriffs, Citizens, Burgesses, Merchants, Mayors, Bailiffs, and Commons, and all other his subjects of Ireland, acquainting them that he had empowered the said Thomas, &c. to expound to them by word of mouth certain arduous and special affairs, and requiring them to give firm faith to the said Thomas, &c. on his behalf. A Parliament was accordingly held, as appears by the entry of a fine of 100s. imposed on one of the Lords for absence from the same.

Welsh
Roll,
T. L.
10 E. 1.

In the year 1291 a Parliament was held at Dublin on the Monday in the quindene of St. Hilary; and the Barons, Magnates and Community of Ireland there assembled, voted a fifteenth to the Crown. In the year 1293 another Parliament was held at Dublin, for his absence from which John Bishop of Clonfert was fined.

Original
Miscellan.
Letters,
T. L.

Close Roll,
T. L.
21 E. 1.

In the year 1295 his Majesty issued a special writ to the Justiciary, requiring him to raise a certain number of horsemen and 10,000 foot, who were to be fully accoutred and

Close Roll,
T. L.
23 E. 1.

Black
Book of
Christ Ch.
Cathedral,
Dublin.

sent over in the King's service into England: for effecting this, writs also on the same day issued, as might be expected, to the Magnates, viz.:—John Poer, Richard de Burgo Earl of Ulster, Geoffrey de Geneville, and twenty-five others, requiring them to give faith to what the Justiciary “vivæ vocis oraculo” should explain to them on the King's behalf.

It was on this occasion, when raising so great a supply, that that *general* Parliament was held, the acts, &c. of which are minutely detailed in the Black Book of Christ Church Cathedral. As to the statutes then passed, there is little room here for observation, though few records so fully exhibit the situation of the country at that period; but the persons summoned, and the other minutiae disclosed in this document, cannot be passed over without more special notice.

It recites that the Justiciary, &c. ordained that a “general Parliament” should be held here on this day, and that therefore it was ordered to the Archbishops, Bishops, Abbots, and Priors whose presence for this purpose seemed necessary, also to the Earls, Barons, and others the *optimates* of the land, viz.—to each of them for himself, that they should be here on this day, &c. It was also commanded to the Sheriffs of Dublin, Kildare, &c. (here follow the other counties,) and to the Seneschals of the liberties of Meath, Wexford, Carlow, Kilkenny, and Ulster, (peculiar liberties, the lords whereof were the Earls of Ulster, Pembroke, Norfolk, &c.) that they the sheriffs in full county, and the seneschals in the full courts of such liberties, by the assent of such counties and liberties, should cause to be elected two of the better and more discreet knights of each county and liberty to be present here, having full power from the whole community of such county and liberty to do and receive, &c.; and that the sheriff and seneschal be also here in their proper person. And Thomas Bishop of Meath, Nicholas Bishop of Leighlin, and the rest of the Bishops, and Richard de Burgo Earl of Ulster, now came, &c. and Richard Taaff, Sheriff of Dublin, and others, came and returned their writs. And Walter de la Hay and Eustace le Poer, elected by the community of the liberty of Kilkenny, &c. came also. And Nicholas Archbishop of

Armagh, and others, excusing their absence, sent here their *proctors* or *attornies*, that is to say, &c. And likewise Hugh de Leis, one of those elected for the County of Limerick, &c. came not; therefore they are under fine. And in the presence of the said Bishops, Earls, and Barons, and of the other *optimates* here appearing, with the common Council of the King in this land, certain provisions were made and unanimously agreed to and granted by all, saving the right of the King. Several statutes then immediately follow, each commencing methodically with a recital of some matter requiring redress, and generally ending with the remedy now provided or enacted, to which are always prefixed the words "Concordatum est quod," &c. or "Concordatum est et concessum quod," &c.

In the 28th year of the same King's reign, writs issued to the Archbishops, Bishops, Deans, Chapters, Priors, Knights, Mayors, Bailiffs, &c. notifying that the King was about proceeding to Carlisle to repress the rebellion of the Scotch, for which purpose he much needed a subsidy from those persons and his other faithful subjects, and therefore he requires them to confide in what John Wogan the Justiciary should propose and seek of them on the King's behalf. To the Earl of Ulster also a writ issued, requesting his "*consilium et auxilium*" on this occasion; but the proceedings of the Parliament held to grant this subsidy are fully and curiously detailed on the Chief Remembrancer's roll of that year. In the first place appears the King's writ to his Earls, Barons, Knights, &c. of Ireland, declaring the occasion of the subsidy, and that he had appointed his Justiciary, Chancellor, &c. to ask and require in his Royal name from them their aid towards the happy consummation of so arduous an affair: it is then stated that similar writs were directed to all the cities and boroughs through Ireland, summoning them to a "general Parliament" at Easter in Dublin, viz.:—"that the Prelates and Magnates all should come there in their proper persons, &c. and the Commons of counties by two, three, or four, for this by them chosen, and having special power as if all had been present, and likewise the Commons of cities and

Chief Re-
memb.
Roll,
28 E. 1.

French
Roll,
T. L.
16 H. 3.

Governor, apprising him that he intended to continue in foreign parts, and much required a potent Aid in men and money; and therefore his Majesty commands him to raise in Ireland 100 knights, 200 horse, and 1000 foot, and send them over speedily with all the money he might be able to procure. In the year 1244 by writs from St. Alban's, Henry addressed the *Earls, Barons*, "*probis hominibus*," and *Community* of Ireland, declaring that the service he required of them, to come over and join his army, should not be in future time prejudicial to their liberties, if it after appeared that they were not bound to render such service out of Ireland. The Aid then sought, we find, was granted, as there is a writ dated from the Camp on the 21st of October in the next year, ordering payment to be made to the 3000 foot soldiers from Ireland who attended with the Justiciary in the King's service at Garmok. There are many similar entries to be found; and King Henry appears to have frequently obtained the most ample aids and supplies from Ireland.

Pat. Roll,
T. L.
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T. L.
3 E. 1.

de Clare, John de Vescy, John Fitz John, Theobald de Verdun, Richard de Rupella, Otto de Grandison, Emerick de Rupe, and Eudo la Zuche, certifying that they had made the grant already mentioned in the English parliament, and that now at the request of the Merchants they granted that King Edward should have *in all their ports in Ireland* the same Customs on wools and skins thereout exported, *saving however to themselves* the forfeiture of all such merchandize as passed through their fees or liberties without paying those Customs to the King, and so that in all their ports where the King's writs had not currency two of the more discreet and faithful men of those parts should be elected, and should be sworn to arrest such merchandize until, &c. Certificates duly signed and sealed by the above noblemen in the "General Parliament at Westminster," the King forwards to his Justiciary in Ireland; and as many of the towns then sending members to parliament, not only were situated within liberties or seigniories where the King's writs ran not, but also were daily obtaining further corporate immunities and privileges by the charters of those great Lords above named, the King's object, it is evident, must have been considerably facilitated by promulgating the example of so many of the more influential Magnates of Ireland. Notwithstanding the language of those Certificates, and the high authority of the Lords of liberties at that period, still it appears the Crown considered such grants as incomplete or ineffectual without the concurrence *of all*: hence King Edward enclosing the form of the Grant made to him in England, as well as the Certificates of certain of his Magnates of Ireland, commands the Justiciary that *by such means as he might see expedient, he should induce the Archbishops, Bishops, Abbots, Priors, Earls, Barons, Commons and Merchants* of the said land, to grant to the Crown a similar Custom to be taken in Ireland in the same form. Accordingly, their consent was obtained to this grant, as we find those foreign merchants named in the above writs immediately after receiving the customs of wool and peltry in the different ports of the kingdom; but it is worth remarking, that some eminent

writers have stated that the record of this first grant of perpetual Customs by the Parliament of England was not now extant, although the Roll within cited contains a sufficient and admissible record of the fact; and therefore we must not be surprised that the same writers, on finding those customs payable in Ireland, were of opinion such customs were there taken by the authority of the Parliament of England.

In two years after, King Edward by letter acquainted his Justiciary that the community of Ireland had offered him 8000 marks for a more general extension of English laws to the native Irish, and that having thereupon diligent treaty and fuller deliberation with his Council, compliance seemed expedient if it met the *common consent*; wherefore he commands him that after examining *the wishes of the people, the Prelates and Magnates*, and after agreeing amongst themselves as to an higher fine to be paid, he should settle this matter *with the consent of all, or at least of the greater and sounder part of them*, "*de consensu omnium vel saltem majoris et sanioris partis eorundem.*" This document was published by Mr. Prynne, formerly Keeper of the Records in the Tower; and the Author not having yet seen the original, now gives those notes of it on the authority of so well-known a writer.

About this period commences the series of Rolls in the Chief Remembrancer's Office, Dublin; and so regularly were parliaments held at that time, that we find several of the rolls there headed "*Pleas of Parliament.*" The general subject of these pleas seemed to be suits and questions of that high or public nature which were best decided by the Chief Governor and his Council in Parliament assembled. Thus in the year 1279, William le Gras, Oliver le Gras, Robert le Gras (of the very respectable family now called "*Grace*" in Ireland), with their followers, having disturbed, &c. the King's army, it was ordered that they be attached to be before the Justiciary at the next Parliament at Dublin, on the morrow of Saint Matthew the Apostle, to answer, &c.—A day also is given until the next Parliament, for the articles touching the Bishop of Ardagh.—At the instance of Richard

de Burgo Earl of Ulster, and the other Magnates, pardon is granted to Walter le Poer, of all, &c. ; and the charter for that purpose is delivered to Eustace le Poer, that it may be kept in an *equal hand*, so that if his conduct be not good hereafter, &c. The petition being heard of Richard de Burgo Earl of Ulster, for restitution of the wardship of the lands and heir of Adam de Staunton, who held of the said Earl in Connaught, &c.—The Seneschal of Kilkenny prays delivery of the nine hogsheads of wine seized at Kilkenny for the King's use ; and it is granted, he undertaking to carry them to the Marches of Scotland, as provision for his lord the Earl of Gloucester, who is going there in the King's wars.—It is agreed that no money be carried out of the country without special warrant, and that no one land but in the right ports, &c.—It was agreed by the council, that John de Hothum and Thomas de Kent, who were sent to the King on weighty affairs, should have twenty marks for their expences in going, tarrying, and returning. It was also agreed to resist the malice of the O'Tooles, that an increase of thirty horsemen and eighty foot be placed in the castle of Castlekevin.—It appearing by the King's letters that the wines sent to him out of Ireland were bad, mixed, and for the greater part putrescent ; an enquiry is now here made as to the facts on the oaths of merchants, who find that those wines were shipped at Bourdeaux about the quindene of Michaelmas, and were after the feast of All Saints landed at Dalkey, whence they were conveyed in another ship to Skynburnesse, and this latter ship was by tempests thrown here and there until the Epiphany of our Lord, when the wines were landed, and this was the cause of the deterioration of those wines, which was not owing to any mixture, nor any default of the mariners or merchants.—It is agreed that Murthuth O'Burne have that moiety of the lands of Glenfeil which Magnus O'Toole received from John de Saunford, Archbishop of Dublin, and which Richard, son of the said Magnus, though outlawed, now holds ; *and be it known that this grant is made, that thus dissension may arise between the said septs.*—The Friars minor of Ross petition for delivery of twenty oaks which they by permission of

Chief Rememb.
Roll, Dub.
28 E. 1.

Chief Rememb.
Roll, Dub.
35 E. 1.

Chief Rememb.
Roll, Dub.
33 E. 3.

occasion, and to every place however distant where parliaments were held, was attended not only with danger to themselves, but also with considerable detriment to the English districts in general, which usually suffered at such times from hostile invasions. The provisions of this ordinance were soon embraced, and we find in the 33rd year of the present reign, writs of summons issued to certain of the Prelates, Peers, and Commoners, some of whom resident in the southern part of the kingdom were directed to assemble at Waterford, while those of the nearer parts of Leinster were summoned to meet at Dublin. Other writs of this description subsequently issued, and still exist.

In the Primate's registry at Armagh are entered two writs of parliamentary summons issued in the 36th and 41st years of this reign.

In the 40th year of Edward the Third, Lionel Duke of Clarence held a Parliament, and the enactments then passed are generally called "the statutes of Kilkenny," from the place where this meeting assembled. Those statutes are mentioned in the Commons Journals of James the First's reign; they are also to be found most frequently pleaded on the Chief Remembrancer's rolls, and there are some ancient paper copies of them in the British Museum and the Lambeth Library, where the Author transcribed them. They were enacted by the *King's Lieutenant and Council, with the assent of the Archbishops, Bishops, Abbots, and Priors (for as much as to them appertained,) the Earls, Barons, and others the Commons of the said land there being assembled*, and seem principally to be founded on the acts of the 25th year above mentioned. They confirm all the franchises of the Church of Ireland theretofore ordained or granted by the King or his progenitors, by statutes or ordinances made in England or Ireland, and recite and re-enact many laws which had been previously passed, though without any more specific allusion to that circumstance.

On the 10th of December, in the 42nd year of his reign, the King forwarded to the Justiciary of Ireland certain ordinances to compel those who resided in England and had

estates in Ireland, to repair thither with their families, men at arms, &c. and continually dwell there for the recovery and defence of the same; but not knowing certain particulars necessary for perfectly enforcing such an ordinance, he commands the Justiciary to convoke a Parliament of the Prelates, Magnates and others his faithful of the said land on a certain day and place, and there to expound those ordinances to them for their consideration, so as to ascertain whether they were framed according to their wishes, &c. and to certify the result to the King into England under the seals of the Prelates, Magnates and others of the said Parliament, &c. A Parliament was accordingly summoned, as appears by the ancient registry of Armagh.

Close Roll,
T. L.
42 E. 3.

William de Windesore, a Baron of the English Parliament, while Lieutenant of Ireland in this reign, seems to have given general dissatisfaction by his arbitrary proceedings; in fact, the King at length, to appease the clamour raised against his conduct, was obliged to order inquisitions to be held for enquiring into the circumstances alleged against him. By those inquisitions it appeared, that he convoked a Parliament at Dublin in the year 1369, and there imposed a sum of £20 on the Burgesses of Drogheda without their consent, of which sum they were obliged to pay him 100s. *per extortionem*. In the year 1370 he held another Parliament at Dublin, and the two Knights elected for Louth County were imprisoned by him for their refusing to vote a subsidy; wherefore James de la Hide and John Fitz John, the knights returned for Meath County, were obliged to grant the subsidy in the name of the Commons of Meath, *although before approaching the said Parliament, it was enjoined them by the said County not to grant any subsidy or talliage in the name of the said Commons, on account of the losses, &c. they were labouring under*. But Sir William de Windesore, it seems, went still further; for it is also found by inquisition that on the octaves of Trinity in the next year he held another Parliament, at Baldoyle, where *there were no buildings except a small chapel*, and that he held the Parliament in this place, that the Commons of Ireland there convoked *might not in such place be*

Original
Inquisition,
T. L.

sufficiently lodged or entertained, and that so they might the sooner grant the subsidy : that in this Parliament Sir William sought a subsidy for the King's wars, and although the Commons for two or three days excused themselves, as not being able to grant any subsidy of the kind, still, tired out by such delay from the aforesaid causes, they granted £2000, of which sum £660 was to be assessed in the county of Meath : and that the Commons of that county compelled by necessity, and no longer able to support such burthens, sent Stephen Gray for redress to the King in England. It may be worth observing, that Sir William de Windesore possessed extensive estates in Ireland, viz. — a moiety of the Lordship or Barony of Inchiquin, and of the Burgagerie of Youghal, Kinsale, &c., all which were found on his death in the 8th of Richard the Second to belong to his next heirs, his sisters, *Christiana* married to William Morieri knight, and *Margaret* married to John Duket, whose homage was accepted for the same by the Crown. This appears on the Chief Remembrancer's rolls of Richard the Second, and clears away the doubts which were raised as to the heirs general of that nobleman's ancient English dignity, now so long in abeyance.

Chief Rememb.
Roll, Dub.
49, 50 E. 3.
4 Ric. 2.
&c.

In the 46th and 48th years of this reign, writs of parliamentary summons issued, as will be found by the copies thereof in another part of the present work. Parliaments were accordingly held in both those years, as also in the 49th year, as may be seen by the records of several fines imposed on the Bishops of Cork, Ardfert, &c. the Abbots of Jerpoint, Mary's Abbey, Walter Cusack, Simon Cusack, Thomas Vernoill, Philip Fitz William Barry, John Husee, Baron of Galtrim, &c. who were amerced for their absence.

In the 49th year also the King ordered writs to issue for representatives to be chosen and sent to England by the counties, cities, and boroughs, as well as by the clergy of Ireland. Part of the returns to those writs were published in Ayloffe's Calendar, but the whole series may be seen in the Tower of London ; and it appears by them that on this extraordinary innovation being attempted, it was unani-

mously declared, "that according to the rights, privileges, liberties, laws and customs of the land of Ireland, from the time of its acquirement and before used, they were not bound to elect or send any out of the said land to parliaments or councils held in England, to treat, consult, and agree as the writ requires."

Original
Returns,
T. L.

A Parliament was held in the 50th year of Edward, and for absence therefrom fines were imposed on the Bishops of Cork, Limerick, Down, Emly, &c. Gerald Earl of Desmond, John Roche of Fermoy, Nicholas Poer, Richard de Burgo, Philip de Barry, and David Fitz David de Barry, and Walter Lenfaunt, &c. David de Barry in his petition shewed he had been imprisoned at Dromfynyn in the county of Cork, &c. by the Cauntones during the Parliament, and therefore prayed to be exonerated of the fine as "a work of charity." Walter Lenfaunt, on the other hand, shewed that he was summoned "*tanquam tenens per Baroniam*" to that Parliament, whereas it appeared he never held by Barony, and this being proved his fine was discharged, because, as the King in his writ says, *it is not the law or custom in our said land hitherto used, that any persons not holding by Barony to our parliaments should be summoned, or for their absence from the same should be amerced,*" &c.

Chief Re-
memb.
Roll, Dub.
49 E. 3.
50 E. 3.
4 Ric. 2.
&c.

Chancery
Roll, Dub.
51 E. 3.

RICHARD THE SECOND.

The writ of parliamentary summons issued in the first year of this reign will be found in another chapter, and it appears that on that occasion John Freigne knight was elected by the Commons of Meath county, but he absenting himself from the Parliament was amerced in 100 marks: whereupon he petitioned, setting forth his election as one of the knights for the liberty of Meath, that he was absent from this Parliament at Tristeldermot, and was amerced in the above sum; but that now the Commons of Meath, supposing that he in reason should pay that fine, and ought by right to exonerate them, intended to impose it entirely on him; wherefore, as this he cannot pay without the destruction of his estate, he supplicates that, his poverty considered, it may be reduced

Chief Re-
memb.
Roll, Dub.
5 Ric. 2.

to such reasonable sum as he without depression, &c. and saving his contentment, may be able to discharge. It appearing to the Prelates, Magnates, and Commons assembled, under all the circumstances, that this amercement was too heavy, the King at their request ordered a reduction of the same.

Chief
Rememb.
Rolls,
Dub.
6 Ric. 2.
Bl. Book,
Christ
Church
Cathed.
Dub.

Copies of the writs of summons issued in the fourth and in the fifth years of this reign will be also found in the same chapter: and several fines were imposed on Peers and Prelates for their absence on those occasions. A protestation drawn up by Parliament of the fifth year was exemplified under the great seal by the King, and is still of record.

At a Parliament held in the ninth year the Prelates, Proceres, Majores, and Commons of Ireland petitioned the King, who thereupon commanded the Lieutenant, Chancellor, Treasurer, Barons, and all other the Judges, &c. there, that the *liberty used in Ireland should be confirmed, and that no person dwelling in Ireland, for any felony or contract made out of that kingdom, should be answerable to writs on such account issued out of England, and that the liberties of the Petitioners should remain unhurt according to the law and custom of Ireland; and further his Majesty orders all proceedings to the contrary to be superseded.*

Chief
Rememb.
Roll, Dub.
9 Ric. 2.

Peter Bishop of Limerick having been taken prisoner and incarcerated by the Irish enemy, is now, on payment of ten marks to the King, exonerated from the fine of 100 marks imposed on him for his absence from the Parliament of the 13th year of this reign.

Chief
Rememb.
Roll, Dub.
17 Ric. 2.

On the 26th June, in the 17th year of his reign, King Richard exemplified and confirmed the ordinance of King Edward the Third respecting the holding of parliaments and great councils in Ireland.

Pat. Roll,
T. L.
17 Ric. 2.

In that and the following year writs of parliamentary summons were issued, copies of which will be seen in another chapter of this work.

It is unnecessary to bring down the meetings and acts of the Irish parliaments to any later period; records respecting them becoming much more numerous, are without difficulty to be discovered; and the statute rolls which commence

in some time after King Richard's reign, will afford the reader the most perfect and most authentic information as to the further proceedings of that assembly. It might be useful also to add, so completely and permanently had the holding of Parliaments been established in Ireland, that after the reign of Richard the Second the government of that country was never delegated to any Chief Governor by the Crown without special clauses in his appointment as to the summoning and convoking, proroguing, continuing, adjourning, and dissolving of Parliaments and great Councils to be held before such Chief Governor, and as to the power of making and ordaining statutes and ordinances in such Parliaments and Councils, &c. : on this account the reader is also here referred to those commissions and patents by which the Crown delegated its government of Ireland to the successive Chief Governors. By those patents of appointment not only will appear what is just stated, but also the fact that the Crown always directed that the summoning, convoking, proroguing, and other proceedings of parliaments should be according to the *laws and customs of Ireland*—no mean proof, it should be observed, of the extreme antiquity of legislative establishments in the country.

E. of Ormonde's appointment, on Pat. Roll, T. L. 3 H. 6. Sir Thos. Stanley's appointment, on Pat. Roll, T. L. 9 H. 6. &c. &c.

The above collections comprize most parliaments held during a period of more than two hundred years, and their insertion was here considered necessary from the doubts that have been raised as to the existence of a legislature so ancient in Ireland : it only now remains to be added, that during that time, and for nearly a century after, the House of Lords was exclusively composed of Feudal Peers ; for though several Earls created by patent had sat in those assemblies, yet the right of such Earls to Parliamentary dignity was solely derived from the tenure of Feudal Baronies which they possessed, and not from their patents of creation, which are silent on the subject.

CHAPTER IV.

HONORARY HEREDITARY OFFICERS,—CONSTABLE, MARSHAL, SENESCHAL, CHIEF BUTLER, STANDARD BEARER, CHIEF SERJEANT. MISCELLANEOUS TENURES AND SERVICES.

THE high honorary offices, or hereditary dignities of *Constable*, *Marshal*, *Seneschal* or Steward, Chamberlain, Butler, Standard Bearer, &c. which had been attached to the King's Court, or *Aula Regia*, in England, from the time of the Norman Conquest, were introduced into Ireland, as has been already observed, in the reign of King Henry the Second. This may be collected from a variety of records, many of which will appear in the following succinct account of those ancient Dignities.

SECTION I.

CONSTABLE OF IRELAND.—In England the office of Lord High Constable was one of preeminent authority and rank, and was vested for some centuries in the Earls of Hereford. To those Earls, who were also Earls of Essex and of Northampton, as first amongst the most ancient and illustrious of the English nobility, Lord Chief Justice Crew thus beautifully alludes, when delivering his judgment in the case of De Vere Earl of Oxford.

“ I have laboured to make a covenant with myself that
 “ affection may not press upon judgment; for I suppose
 “ there is no man that hath any apprehension of gentry or
 “ nobleness, but his affection stands to the continuance of so
 “ noble a name and house; and would take hold of a twig or
 “ twine thread to uphold it. And yet Time hath his revolu-

“ tions ; there must be a period and an end to all temporal
 “ things, *finis rerum*, an end of names and dignities, and what-
 “ soever is terrene, and why not of De Vere ? FOR WHERE IS
 “ BOHUN ?—where is Mowbray ?—where is Mortimer ? Nay,
 “ which is more, and most of all—where is Plantagenet ? They
 “ are entombed in the urns and sepulchres of mortality ! And
 “ yet let the name and dignity of De Vere stand so long as it
 “ pleaseth God.” From those pathetic interrogatories, the
 reader may well imagine the rank and proud pretensions of
 the nobles who enjoyed the Hereditary Constableness of
 England.

In Ireland the dignity of Lord Constable was conferred on
 Hugh de Lacy, one of the most powerful subjects of Henry
 the Second in that country : to him was granted the princi-
 pality of Meath, as also a certain number of *fees* near Dub-
 lin, while acting as the King’s officer or deputy there. In
 the year 1185 he witnessed Prince John’s charter to the Ab-
 bey of “ Valle Salutis,” as “ Constable ” of Ireland, as well
 as several other charters executed in that reign ; and after
 holding the high trust of Chief Governor, or Viceroy, he died,
 leaving two sons, Walter and Hugh. To Walter the elder
 son King John confirmed by charter, in the year 1207, the
 territory of Meath, by the service of fifty knights ; and his
fees in Fingal in the valley of Dublin by the service of seven
 knights. To him succeeded his son and heir Gilbert de Lacy,
 who was father of Walter, Margaret, and Matilda ; and this
 son Walter dying without issue, the lordship of Meath was
 inherited by his two sisters. Matilda became the wife of
 Geoffrey de Geneville, an English baron of illustrious descent ;
 and Margaret intermarried with John de Verdon, who there-
 by obtained her moiety of Meath and also the office of Con-
 stable of Ireland.

Chief
Rememb.
Roll, Dub.
13 E. 2.

Patent
Roll, T. L.
13 E. 3.

Charter
Roll, T. L.
9 John.

Chief Re-
memb.
Roll, Dub.
35 E. 1.
Chief Re-
memb.
Roll, Dub.
1. 11 E. 3.

This John was great grandson of Bertram de Verdon, for
 whose expences in going to Ireland with Prince John, King
 Henry the Second ordered twenty-eight pounds and eleven
 pence to be paid in the year 1185. Bertram de Verdon was
 Seneschal of Ireland, and obtained the barony of Dundalk and
 lordship of Clonmore, with other estates in the county of

Pipe Roll,
Somerset
House,
17 & 18
H. 2.

Pat. Roll,
T. L.
11 E. 3.

Chart.
Thomas
Court
Abbey
Dublin.

Close Roll,
T. L.
9 H. 3. p. 2.

Chart.
Thomas
Court
Abbey
Dublin.

Chief Re-
memb.
Roll, Dub.
8, 9 E. 1.

Louth. He had also a residence or court in Dublin, which is styled in some ancient deeds, "the street called the *Court of Bertram de Verdon*," and the site of this mansion was recognized as "Bertram's Court" until within the last century. *Nicholas de Verdon* succeeded his father *Bertram*, and had a Royal order, dated the 21st of August, in the year 1204, for entering into possession of his father's estates; and another in the year 1216, respecting his castle and estate of Dundalk and Clonmore, in which manors and lordships King Henry the Third granted him liberty of holding markets and fairs in the year 1226. *Nicholas de Verdon* had an only daughter and heiress, *Roesia de Verdon*, whose alliance was of such importance, that King Henry wrote to her from Windsor on the 4th of September a special letter, recommending her to marry his beloved *Theobald le Botiller*, Honorary Butler of Ireland, and ancestor to the Earls, Marquises, and Dukes of Ormonde: His Majesty also addressed another to her father *Nicholas*, requesting him to use his influence on this occasion with his daughter. The issue of such marriage was the *John de Verdon* above mentioned, who bore the name of his mother, as did also his descendants. Besides the barony of Dundalk, which he inherited from his mother, and the moiety of Meath principality, which he obtained with *Margaret de Lacy* his wife, the possessions of this Lord *John* extended to other parts of the kingdom, and must have been most ample: part of them lying in the South, viz. the castles of Adair, Castle Robert, &c. he conveyed to *Maurice Fitz Gerald* (ancestor of the Earls of Kildare and Dukes of Leinster), in *frank marriage* with *Agnes de Valentia* his wife; and the charter for this purpose, it should be observed, was witnessed by both the King's sons *Edward* and *Edmund*, the Earls of Gloucester and Surrey, *John de Baliol* King of Scotland, *Humphrey de Bohun* Earl of Hereford, High Constable of England, besides many others of the leading nobility.

The issue of this marriage between Lord *John de Verdon* and *Margaret de Lacy* was *Theobald de Verdon*, who, from his ample possessions in both countries, sat as a Baron in the Parliaments of England and Ireland. In the year 1275,

when a grant of customs to the Crown (the first of the kind) was made in the English Parliament, King Edward enclosed certificates of the grant then made to his Justiciary and others in Ireland, in order to obtain a similar grant from the Parliament of that country; and amongst those peers who certified that they had granted those customs on merchandize to the Crown in the "*general Parliament* of the said Lord the King at Westminster," in the 3rd of Edward the First, were the Earls of Pembroke, Gloucester, Norfolk, &c. and this Theobald de Verdon. In the year 1300, John the Chamberlain of Lord Theobald, and Hawisia another domestic in his service, being accused by their fellow servants of taking a stone of red escarbuncle which was fixed in his Lordship's ring valued at 1000 marks, he imprisoned them in his own prison, and for so doing instead of sending them to the King's jail, Lord Theobald, notwithstanding that his high office gave him cognizance of the most serious crimes, was sued by the Crown, and obliged to pay a fine to the King. In a few years after, when a corporate body which had an exemption from toll by the King's charter, claimed their privilege within his lordship of Duleek, Lord Theobald pleaded that toll was a profit appertaining to his manor of Duleek, and that he and his ancestors, up to the time of Walter de Lacy his great grandfather, quietly enjoyed and received such toll. His death took place early in the reign of Edward the Second, and to him succeeded as son and heir Theobald de Verdon junior, who had summons and sat in the Parliament of England as well before as after his father's death. This Theobald had the King's order for getting possession of his father's estates on the 8th of November 1310; and in the next year paid £275. 10s. as relief for his lands in the counties of Meath and Dublin. While attending the Parliament of England, he appointed his *dear brother Milo de Verdon* guardian of all his estates in Ireland, reserving to himself all advowsons of churches, wardships, and marriages, as appears by a deed which he executed on the 29th of October, in the year 1310 at his Castle of Alveton, "*nostre Chasteil de Alveton en Engleterre*;" and in which he styles

Fine Roll,
T. L.
3 E. 1.

Chief Rememb.
Roll, Dub.
28 E. 1.

Chief Rememb.
Roll, Dub.
3 E. 2.

Chief Rememb.
Roll, Dub.
4, 5 E. 2.

himself "THEOBAUDE DE VERDOUN CONESTABLE DIR-LAUNDE." The King soon after ordered that he should enjoy the ancient annuity of twenty-five marks which his father and all his ancestors of the De Lacy family had received out of the town of Drogheda and castle of Blackagh; and the serjeantship of the lordship or court of Meath was found by inquisition to be held hereditarily under this Lord Theobald, and many other rights which he inherited from Hugh de Lacy were recognized and enforced. After being Chief Governor of Ireland, in the year 1314 he died, leaving four daughters and coheiresses by his first and second wives, Maud daughter of Edmond Lord Mortimer, and Eliza daughter and coheir of Gilbert de Clare Earl of Gloucester and of Joan Plantagenet his wife, daughter of King Edward the First. The eldest of Lord Theobald's daughters, Johanna, married Thomas Baron Furnival, ancestor of the Earls of Shrewsbury; Elizabeth, the second eldest, was wife to Bartholomew Baron Burghersh; Margaret married William le Blount; and Isabella became wife of William de Ferrers; and the estates in England and Ireland were divided amongst those families.

Chief Rememb. Roll, Dub. 33, 34 E. 3.

Chief Rememb. Inquisitions, Dub. 8 Jan. 3 James 1.

Chief Rememb. Roll, Dub. 18 E. 2.

Chief Rememb. Roll, Dub. 42, 43 E. 3.

Statute Roll, Dub. 38 H. 6.

See p. 74.

Long after the great estates of Lord Theobald de Verdon vested in coheirs, viz. in the year 1460, we find that the office of Constable still continued to be exercised, and that its privileges were viewed with considerable interest by the Parliament of Henry the Sixth, in which it was solemnly declared that there then was, and of *ancient custom* had been a Constable, &c. in Ireland; and before him, &c. it was enjoined under the severest penalty all appeals of treason, &c. should in future be heard, &c. But in whom at that period this great office was vested is not stated in the above document, nor has that fact been discovered by any other records; and it appears to be most likely, that as the coheirs of Lord Theobald resided in England, the exercise of this dignity may have in time fallen into desuetude.

The next heirs male of Lord John de Verdon who acquired the Constableness by his intermarriage with Margaret de Lacy, were Nicholas de Verdon and Milo de Verdon. Those

noblemen and their descendants had writs of summons as barons, possessed high influence during the fourteenth, fifteenth, and sixteenth centuries, as appears by many records, and retained, even to the reign of Charles the Second, that most ancient branch of the De Verdon estate in Ireland, viz. the lordships of Clonmore, Stanton, &c. with the advowsons of those churches which were originally annexed to their castellains and mansions by Sir Bertram and Sir Nicholas de Verdon in the reigns of King Henry the Second and his son King John; yet with all those advantages, and though constantly residing in the country, they never seem to have enjoyed this office, and it may therefore be presumed that, like other official hereditary dignities, the Constablenesship vested in Lord Theobald's coheirs with the lands to which it had been incident or annexed. But certainly the present heir male of Lord Nicholas de Verdon has the consolation of reflecting that in blood and name he represents one of the most potent families that ever settled in Ireland, and decidedly as illustrious and as ancient a race of Peers as ever flourished in England since the Norman Conquest.

Ch. Rem.
Roll, Dub.
temp. E. 2.
E. 3. R. 2.
H. 4. &c.
Inqs.
Ch. Rem.
Off. Dub.
Ancient
Registry.

SECTION II.

LORD MARSHAL.—To the office and duties of Lord Marshal of Ireland allusions are frequently found in the King's charters before the year 1199, and there is little doubt but that this dignity was borne by Richard Earl of Pembroke during the reign of Henry the Second. After that earldom, however, with the lordship of Leinster, devolved on William Marshal, by his marriage with Isabella daughter and heiress of Earl Richard, the office of Marshal of Ireland was conferred by the King on John Marshal, nephew of Lord William Marshal just mentioned. To this John the Seneschalship, estates and castles of Leinster were committed in the year 1204, by his uncle the Earl of Pembroke, and the King on that occasion addressed writs to all the Sheriffs of England in whose bailiwick the said John had lands, acquainting them that he had given him licence to go into Ireland in the service of his uncle William Earl Marshall,

Patent
Roll, T. L.
5 John.

and of remaining there as long as he pleased. His Majesty also on the 10th May in the same year, issued his writs to the Justiciary and Barons of Ireland, to apprize them of the said John's going to that country, and ordered them to render him their aid and counsel in the execution of his duties. It was not until about four years after his arrival in Ireland that John Marshall had this dignity conferred on him by the King, as appears by the charter granted on the occasion, which bears date the 12th of November, in the 9th year of that King's reign. It may not be irrelevant to give here the operative words of this ancient instrument, particularly as so few enrolments remain of the early grants of such dignities.

Charter
Roll, T. L.
9 John
and Pat.
Roll, T. L.
12 H. 4.

"John, by the grace, &c. To all Archbishops, Bishops, Earls, Barons, &c. Know ye that we have given, granted, and by this our charter confirmed to JOHN MARSHALL, for his *homage* and *service*, OUR MARSHALSEA OF ALL IRELAND with all its appurtenances. We have also given him for his homage and service the cantred in which is situated the village of Kelune, &c. to hold to him and his heirs of us and our heirs, &c. by the *service of five knights*. Wherefore we will, &c. that the said John and his heirs shall hold the aforesaid Marshalsea, with all the *liberties* and *free customs* to the same belonging, and the said cantred, &c. well and in peace, freely and quietly, wholly and honourably in advowsons of churches, in woods, &c. in houses and fresses, which he and his heirs in the same shall erect, in moors and marshes, in waters and mills, &c. and in all other places and things to the same belonging, with *sok, sak, tol, them, infangthef, outfangthef*, and with all other liberties and free customs to the same appertaining. Saving to us and our heirs all those things belonging to the Crown Royal. Witness G. Fitz Peter Earl of Sussex, R. Earl of Chester, &c. at Tewksbury, the 12th November, in the 9th year."

Close Roll,
T. L.
16 John.
Pat. Roll,
T. L.
17 John.

In the year 1215 the King directed the Justiciary to allow to the said John every thing belonging to his Marshalsea of Ireland, that is to say, in Munster, Leinster, Desmond, Connaught, Ulster, Meath, Kenelyon, and in all Ireland, provided he appoint one knight sufficient to keep the same. In the year 1220 he had licence from the Crown to appoint a

Deputy to execute in his place the duties of the Marshalsea, and he was also at the same time permitted to retain his estate in Tyrglass, though he had neglected to fortify the same. The office of Marshal of Ireland continued in the male descendants of this Lord John until the reign of Edward the Second, when his heir male and direct descendant John Marshal died without issue, and left the dignity and paternal estates to his sister Hawisia, the wife of Sir Robert de Morlee; whereupon the King in the year 1324 ordered his Justiciary to give to the said Robert the Marshalsea of Ireland as the inheritance of his lady. On obtaining possession under this order, Sir Robert, by deed dated the 7th of March in the same year, as "*Robert de Morley Mareschal Dirlaunde*," deputed his "chere bacheler" John de Athye to serve and in his name execute the duties of the Marshalsea. There is an application made to King Edward the Third in the year 1347 by this Sir Robert, in which he states that he and his ancestors enjoyed this office hereditarily *time immemorial*, and as those words *time immemorial* have been always legally construed to extend to a period commencing in or before the 1st year of King Richard, the supposition already made that Richard Earl of Pembroke had been Marshal of Ireland in the reign of Henry the Second, from whom it hereditarily descended with his daughter and heiress to William Marshal the uncle of John Marshal who obtained the charter of 1208, is considerably strengthened. On the death of Sir Robert de Morley, his son and heir William became Lord Marshal of Ireland, and he was one of those lords having estates in that country, though not residing there, whom in the year 1360 King Edward the Third summoned to meet and consult for the future defence and recovery of their possessions. The son and heir of this William was Sir Thomas de Morley, who accompanied King Richard the Second into Ireland, and for whom on the 1st November in the year 1409 King Henry the Fourth inspected and exemplified under the great seal King John's charter of the Marshalsea to John le Marshal, whose cousin and heir King Henry states this Sir Thomas then to be.

Close Roll,
T. L.
3 H. 3.
Close
Roll, T. L.
4 H. 3.

Close
Roll, T. L.
18 E. 2.

Chief Re-
memb.
Roll, Dub.
18 E. 2.

Pat. Roll.
T. L.
12 H. 4.

In the year 1460 it was declared by a statute passed in Parliament, that the land of Ireland is and at all times hath

Statute
Roll,
Chancery
Dublin,
38 H. 6.

been corporate in itself of the ancient laws and customs used in the same, free from any charge of any special law of the realm of England, unless only of such laws as by the Lords spiritual and temporal and Commons of the said land have been held, admitted, accepted, affirmed, and proclaimed in the Great Council or Parliament thereof, according to many statutes therein made, &c. and that any realm or land which hath within itself of itself a *Constable* and *Marshal*, no person of the said realm ought to sue or pursue any appeal or other matter determinable before the said Constable and Marshal, before the Constable and Marshal of any other land, &c. and that notwithstanding *there are within the said land and of ANCIENT CUSTOM THERE HAVE BEEN A CONSTABLE AND MARSHAL*, yet divers have sued many of the King's subjects of the same land to be sent for into England by colour of such appeal, to the derogation of those liberties, &c. Wherefore it was enacted, that no person should be compelled to answer any appeal out of the said land; that any officer attempting the contrary should forfeit all his goods and lands and 1000 marks; and that every appeal of treason sued there should be determined *before the Constable and Marshal of Ireland*.

Sometime after the above statute, the barony of Morley in England was carried by heirs general into the family of Lovel, who accordingly had summons and place in Parliament, and from the family of Lovel it passed into that of Parker, amongst the coheirs of which the honorary dignity of Lord Marshal of Ireland, as well as the baronies of Morley and Monteagle, are now said to be in abeyance.

Besides the duties which seemed to have been exercised by the Marshal of England, there were some other public services of great trust and consequence which devolved on the Marshal of Ireland. This appears from entries on the rolls of King John and Henry the Third, whereby we find that under the Marshal's care and superintendence were placed all the castles and fortresses, not only of the King, but of all minors and others whose estates were in the hands of the Crown: these he was bound to inspect and have always duly

guarded and munitioned. The Marshal also in Ireland with the King's Justiciary laid out the bounds, and assigned the districts or territories granted to the Barons by the King, and exercised many other high functions, as will appear on reference to those rolls.

SECTION III.

HIGH STEWARD, OR SENESCHAL.—The important office of Lord High Steward or Seneschal of Ireland was enjoyed by Sir Bertram de Verdon in the reign of King Henry the Second. This may be seen on reference to the charters by which King John erected or confirmed the barony of Naas, endowed the Abbey of Valle Salutis, &c. ; in all which we find that so early as the 31st year of King Henry the Second, Bertram de Verdon in Ireland was styled *Seneschallus*. Sir Bertram died about the year 1192, and during the long minority of his son and heir Nicholas, the duties and title of the office seem to have been borne by William de Rahainge, whom John, in his charter to the Citizens of Dublin, calls *his Seneschal or Steward*. However, after John de Verdon, grandson and heir of the above Nicholas, by his alliance with Margaret de Lacy, inherited a moiety of Meath with the higher dignity of Constable of Ireland, as has been shewn in a preceding section, the title of Seneschal or Steward does not appear to have been used by any member of that family, until it was contained in a grant made to the Earl of Shrewsbury, one of the coheirs of Lord Theobald de Verdon, under the circumstances which shall now be detailed.

Chief Rememb.
Roll, Dub.
20 E. 4.

Patent
Roll, T. L.
11 E. 3.

Original
Charter,
3 R. 1.
Town
Clks Off.
Dublin.

After the death of Richard de Clare Earl of Pembroke, his daughter and heir Isabella (by Eva daughter of Dermot M'Morogh King of Leinster) was given in marriage to Lord William Marshal, who thus became Earl of Pembroke and Lord of Leinster. To him King John by charter confirmed the land of Leinster, or *Lagenia* as it is therein named, and by him and his descendants Lords of Leinster or their coheirs, almost all the present corporate towns, and many of the ancient monastic institutions in the counties of Kilkenny, Wexford, Carlow, &c. were originally established, as can be collected

Patent
Roll,
T. L.
40 E. 3.

Chief Re-
memb.
Roll, Dub.
32 Eliz.

Chief Re-
memb.
Roll, Dub.
18 R. 2.

Inquisi-
tions Chief
Rememb.
Off. Dub.
8 H. 5.

from many of their charters still existing. William Marshal Earl of Pembroke died in the year 1219, leaving five sons and five daughters, and each of these five sons having inherited in succession died without issue, leaving the estates to their five sisters and coheirs. Between those sisters King Henry the Third partitioned the earldom of Pembroke, lordship of Leinster, and other the patrimonial possessions in England, Wales, and Ireland; and by this order of partition, which was afterwards inspected and confirmed by King Edward the Third, the county of Wexford (*corpus comitatûs*) with the assizes, perquisites, &c. valued at £50. 12s. 6d. and the burgh of Wexford valued at £42. and 17d. with the manors of Rosclare, Karrick, Ferns, &c. were assigned to the second daughter and coheir Johanna, and Warinus de Monte Caniso her husband. Their daughter Johanna marrying William de Valentia, he became in her right Earl of Pembroke, and Lord or Earl of Wexford by the selection of his uterine brother King Henry the Third. To him succeeded Audomar de Valentia, who on the 25th of July 1318 as Lord of Wexford confirmed and enlarged the corporate franchises of his town and burgesses of Wexford. In right of Isabella sister and coheir of this Earl Audomar, the earldom and lordship vested in Laurence Baron Hastings Lord of Abergavenny; and his grandson and heir John Hastings Earl of Pembroke dying in the reign of Richard the Second without issue, the King in the year 1395 ordered possession of all his estates to be given to his next heirs Richard Talbot Chevalier, John le Scrop Chevalier and Eliza his wife, John Halsham and Philippa his wife. This Richard Talbot was succeeded by his son and heir Gilbert Talbot, who by inquisition taken in the year 1420 was found to have died seised as Lord of Wexford of several baronies, manors, &c. in that county, and of the Castle there, with the *pleas and profits of the hundred court, bredwyk, alewyk*, and other ancient rights. This inquisition further found that his heir was a minor in ward to the King, and that his widow Beatrice had her dower out of the estates. Afterwards on the death of the minor just mentioned, the lordship of Wexford devolved

on the above-named Gilbert's brother and heir, namely, the renowned John Talbot who has been justly styled the British Achilles.

Having thus deduced the descent of the lordship or (as it is more frequently termed in Royal and judicial instruments) the earldom of Wexford from Richard Earl of Pembroke, and the Princess Eva M^cMorogh his wife to Lord John Talbot, it may perhaps be necessary now to notice the inheritance derived by this Lord Talbot in right of Maud Neville his wife, so far as such inheritance is connected with the office of Lord Seneschal or Steward of Ireland.

It appears that Maude Neville was daughter and coheir of Thomas Neville Baron of Furnivall and of Halomshire, who died in 1406; and that this Thomas Neville was married to Joane grand-daughter and sole heiress of Thomas Baron of Furnivall and of his wife Johanna de Verdon, eldest coheir of Lord Theobald de Verdon, Lord of one moiety of Meath, and descendant and heir of Sir Bertram de Verdon, Seneschal or Steward of Ireland. Accordingly we find Lord Talbot became possessed of his wife's portion of Theobald de Verdon's estate in Meath, which remained in possession of his descendants for two centuries after; and on the 20th of March 1442, John Lord Talbot was created Earl of Shrewsbury; and afterwards by letters patent dated 17th July 1446 (when Lord Lieutenant of Ireland), his Lordship by the name of "John Earl of Shrewsbury and of Wexford, Lord Talbot of Furnyvall and le Straunge," was further created EARL OF WATERFORD and BARON OF DUNGARVAN with all castles, lordships, honours, and lands and baronies, &c. knights' fees, ports of the sea, rents, reversions, and services, liberties, franchises, *jura regalia*, escheats, fisheries, mines, wreck of the sea, forests, chaces, &c. within the same, as also the wreck of the sea from Youghal to the City of Waterford: to hold the said Earldom and the style, title, name and honour of EARL OF WATERFORD, the castles, lordship, honour, land and barony of DUNGARVAN, &c. to the same Earl and the heirs male of his body, by homage, fealty, and the *service of being Seneschal of the King* and his

Chief Rememb.
Inq. Dub.
8 Jan.
3 J. 1.

Patent
Roll,
T. L.
24 H. 6.

heirs in *his land of Ireland*, and of acting in the same office in all things as the Seneschals of England for the time being did and were accustomed to do.

Statute
Roll, Dub.
14 E. 4.

Printed
Statutes,
Ireland,
28 H. 8.

Having thus vested in him the earldoms of Shrewsbury, Wexford, and Waterford with the baronies of Verdon, Furnivall, Le Strange, Dungarvan, &c., as also the Hereditary Seneschalship or Stewardship of Ireland to which his wife was coheir; his Lordship died in the year 1452, when his son John succeeded to those honours, and he dying in 1460, they were enjoyed by his son and heir John the third Earl of Shrewsbury and Waterford, whose son and heir George being a minor and in ward to the King, it was considered that the liberty of the county of Wexford with conusance of all manner of pleas and jurisdictions royal, which belonged to John Earl of Shrewsbury and Wexford his father, had become suspended by his estates being in the King's hands during this minority, and it was therefore enacted by a statute passed in the year 1474, that Gilbert Talbot Esquire (to whom the King had by patent granted the minor's wardship) might exercise and enjoy the said liberty or franchise under the name of Seneschal of the liberty of Wexford, and appoint all officers established and used of old within that liberty. Earl George afterwards attained his full age, and inherited his estates in Ireland, which he enjoyed until the year 1537. In that year, however, a statute was passed, whereby, in consequence of the absence out of Ireland of Thomas Duke of Norfolk, Lord Berkeley, George Talbot Earl of Waterford and of Salop, the heirs general of the Earl of Ormond, and others having lands and possessions there, it was enacted that the King should have and enjoy in right of his Crown of England all honours, manors, castles, seignories, hundreds, franchises, liberties, counties palatine jurisdictions, authorities, knights' fees, advowsons, patronages, &c. to or into which the said Duke, the said Earl of Waterford and Salop, and the others therein mentioned had lawful right, title, possession, or cause of entry.

However, in the next century the ancient Irish honours of Earl of Waterford, Wexford, &c. became again fully vested

in the Earls of Shrewsbury; and in consequence they were summoned to and sat in the Parliament of Ireland. Francis Earl of Shrewsbury, in particular, we find was one of the Irish Peers mentioned in the writ of King Charles the Second, dated 13th October, in the 18th year of his reign, and who are thereby described as “*quosdam Proceres et Magnates dicti regni nostri Hibernie qui locum et vocem habent in Parliamentis dicti regni nostri Hibernie et modo infra regnum Anglie resident;*” and his Lordship having been certified by James Duke of Ormond and the Privy Council to be an Irish Peer as Earl of Waterford, &c. he was obliged to pay his proportion of the assessment then rated on the Parliamentary Nobility of Ireland, amounting on eight several occasions to £160. But it has not been yet ascertained whether any of his successors in the Earldoms executed subsequently the hereditary dignity of Seneschal or Steward of Ireland.

SECTION IV.

CHIEF BUTLER.—Amongst the ancient honorary officers of the English Court was the *PINCERNA REGIS*, or KING'S BUTLER, which dignity was conferred by William the Conqueror on the family of De Albeniaco or Albini, Earl of Arundel: the duty of this officer was to attend the King at his solemn Coronation, and present the first cup of wine, for which as his *honorarium* he had several pieces of the King's plate, and for further support of the dignity, received from the Crown a grant of the prisage of wines, or *butlerage*; which consisted in the right of taking from every ship importing twenty or more tuns of wine, two tuns, one from before, the other from behind the mast. We can form some idea of the estimation in which this high dignity was held, from the circumstance of King Henry the Second having attended on his son as Chief Butler at that Prince's coronation.

In Ireland, as is stated in the early records, the office or dignity of Hereditary Chief Butler has been enjoyed by the ancestors of the Earls of Ormonde from *time immemorial*, and was conferred upon Theobald Walter soon after 1170 by Henry the Second, who, as we find by ancient writings in

Ireland, as well as in Camden, "hoped to redeem his credit in the world after the murder of Thomas Becket archbishop of Canterbury, by preferring his relations to wealth and honours, and this family of le Boteler were nearly related to the Archbishop, being descended from his sister."

Pipe Roll,
31 H. 2.
Somerset
House,
London.

Theobald the first Chief Butler having returned into England, afterwards accompanied Prince John into Ireland in the year 1185, and for the freight of his "*harnesium*" the sum of 66s. 8d. is charged in the public accounts amongst the other expences of the Prince's voyage to that kingdom. He was possessed of the baronies, cantreds and territories of Upper Ormond, Lower Ormond, Elyogarty, Ikerin, Owney, Kilnamanagh, Kilnalongurty, Ileagh, Dow, Arra, &c. as was found by an inquisition held before Thomas Viscount Wentworth; and some of the deeds by which he endowed the Abbey of Furness in Lancashire, are still preserved amongst the records of the Duchy Court, with his seal in green wax, on which are inscribed the words "SIGILLUM THEOBALDI WALTERI."

Original
Charters,
Town
Clk's Off.
Dub.

Prince John, during his residence in this part of the empire, granted various charters, to most of which Theobald Walter is a subscribing witness; the same Prince, as Lord of Ireland during his brother's reign, confirmed and enlarged by charter the corporate privileges of the City of Dublin, which instrument is witnessed by Lord Theobald Walter, who is therein expressly styled "Pincerna," as will appear in that ancient charter, the original whereof is yet extant. Prince John, it should also be added, thereby reserved to himself a liberty, "that out of each ship that thither should happen to come, his officer might choose two hogsheads of wine for his use for 40s., that is to say, for 20s. each hogshead, and nothing more, unless at the pleasure of the merchant. From the words of this reservation it may be concluded, that the right of prisage of wines then appertaining to the Crown in Ireland was more extensive and valuable than in England, since in the latter country it was limited to vessels importing twenty tuns or upwards, whereas in the former no such limitation occurs, but the duty could be exacted out of every ship.

Theobald Walter acquired the barony or lordship of Arklow, and in the year 1205 John de Peuris paid the King fifty marks for liberty to proceed by writ of mort d'ancestor against him for the third part of one cantred of that barony ; he died before 1207, as in that year the wardship of his lands was granted by King's writ to William Marshall Earl of Pembroke, under whom, as Lord of Leinster, part of those lands was held. In that year also the King ordered that his widow Matilda de Vavasor, now the wife of Fulco Fitz Warine, should have dower out of her late husband's estates.

Fine Roll,
7 John.

Patent &
Close Roll,
9 John.

To Theobald the first Butler succeeded his son and heir Theobald, who on coming of age, the 5th of Henry III. in the year 1220, was ordered possession of his father's estates, and had a continuance of that royal favour which his father experienced from the Crown. A remarkable instance of this occurs in the year 1225, when King Henry the Third wrote a special letter to Roesia de Verdon, requesting her to marry his beloved Theobald le Botiller, and afterwards addressed another letter to her father, Nicholas de Verdon, on the same occasion. From him by that marriage descended John de Verdon, Theobald de Verdon senior, and Theobald de Verdon junior, who retained their maternal surname, and as great Barons as well of England as of Ireland, had various writs of parliamentary and military summons. Through them also Lord Theobald was ancestor to the Earls of Shrewsbury, Barons Burghersh, Despenser, &c.

Close Roll,
T. L.
9 H. 3. p. 2.

In the year 1229 he was summoned with the more potent Barons to attend the King at London with men, arms and horses ; and after being Lord Lieutenant of Ireland, he died in the year 1248.

Close Roll,
T. L.
13 H. 3.

The dignity of Pincerna descended through his son and heir, Theobald the third Butler, to another Theobald, his grandson, who as Lord of Arclo is entered in the ecclesiastical record called the "*Crede mihi*," as patron of the Church there.

Theobald the fourth Butler was father of Theobald the fifth Chief Butler, and of Edmund, who after his brother's death without issue, as "*Edmundus le Botiller*," 1st Septem-

- ber 1315, had a grant of the castle and manor of Kar-
rickmakgriffyn and the castle and manor of Roscre, with
the knights' fees, advowsons of churches, &c., under the
NAME AND HONOR OF EARL OF KARRICK, to hold to him
and his heirs by the service of two knights' fees. The same
day he likewise received a grant of the return of all writs in
his cantreds of Ormon, Elyogarthly and Elyokarwyl, in the
county of Tipperary, to hold to him and his heirs for ever.
In the year 1320 he renewed certain proceedings for recovery
of the manor of "*le Rath* juxta Dounenagh-brock," since
called *Baggotrath*, against Robert and William Bagot, an-
cestors of the Viscounts Fitzwilliam of Merrion. In these
pleadings, wherein he is described as *Edmund Walter Pincerna*
Hiberniæ, the death of his elder brother Theobald without
issue, and their descent from Theobald Walter the elder, are
fully set forth. Edmund Earl of Karrick was several times
appointed Chief Governor, and died in the year 1321, leaving
a son and heir James, the second Earl of Karrick, to whom
during his minority, and while the Crown still had custody of
the estates, the King on the 28th January, in the 15th year
of his reign, conveyed the prisage of wines in Dublin, Water-
ford, Limerick, &c. as fully as his father Edmund le Botiller
in times past had the same. On attaining his majority, he
obtained a grant of all his father's estates, but the writ ex-
pressing lands and tenements alone, the Justiciary refused to
invest him with the prisage: upon which the Earl petitioned
his Majesty, setting forth that the prisage of wines in
Ireland ("unde COGNOMEN SUUM GERIT, et ipse et anteces-
sores sui *de tempore quo non extat memoria* gerebant") be-
longed to him, and that all his ancestors *from time immemo-
rial* died seised of such prisage in their demesne as of fee;
and that although the late King Edward had accepted
homage for all his father's estates, yet the prisage was with-
held from him by reason of the aforesaid omission in the writ.
In consequence of this representation, the King ordered the
Justiciary and Chancellor, after due enquiry being made into
the particulars, to yield the Earl possession of the prisage;
and a grant to this effect passed accordingly the 25th Octo-
- Charter
Roll, T. L.
9 E. 2.
- Records
Town
Clk's Off.
Dublin.
- Chief Re-
memb.
Roll, Dub.
31 E. 1.
- Chief Re-
memb.
Roll, Dub.
15, 16 E. 2.
- Close Roll,
T. L.
1 E. 3.
- Close Roll,
T. L.
1 E. 3.
Ch. Rem.
Roll, Dub.
1, 2 J. 1.

ber 1327. In the year following he was created EARL OF ORMONDE; and in the letters patent passed on this occasion the King, after reciting that he had him so created and *girt with a sword*, now, in consideration of the premises, also granted and confirmed to him the annual sum of £10. for ever out of the farm of the city of Waterford, payable by the hands of the Bailiffs there for the time being; to hold to him the said Earl and *his heirs* under the name and honour of *Earl of Ormonde*. Charter Roll, T.L. 2 E. 3.

James, the first Earl of Ormonde and the second of Karrick, died in the year 1337, leaving issue by Eleanor Bohun, daughter of Humphrey Earl of Hereford by Elizabeth youngest daughter of King Edward the First, a son and heir James, then a minor, whose marriage and the wardship of all whose estates were conferred upon Maurice Fitz Gerald and Eveline his wife, in consideration of the sum of £1000 beforehand paid by them to the King. By a patent bearing date the 10th November 1347, and by a second in the same month which confirms it, Edward the Third, for the better support of the name and honour of Earl of Ormonde, and in consideration of his valuable services, as also of the consanguinity existing between him and his Majesty, who says, "ET PRO EO QUOD IPSE DE SANGUINE NOSTRO EXISTIT," granted to the said Earl James for life the regality, knights' fees, and all other liberties in the county of Tipperary, and also the prisage of wines in Ireland. Patent Roll, T.L. 18 E. 3. Chief Rememb. Roll, Dub. 1, 2 J. 1.

A similar motive, namely, that he the name and state of Earl might be able more suitably to maintain, induced the King by another patent, in a few years after, to grant to the "EARL OF ORMONDE AND OF KARRICK," and his heirs male, certain lands in Waterford; and on the 5th May 1372 many of these grants were renewed and confirmed, and together with the prisage of wines, conveyed to him and his heirs male for ever. Patent Roll, T.L. 41 E. 3. Chief Rememb. Roll, Dub. 1, 2 J. 1.

At his demise in the year 1382, the Butlerage, as well as the estates, consisting of Arcklow, Bray, Cahier, Carrick, Nenagh, and about twenty-three other lordships and manors, Chief Rememb. Roll, Dub. 5 H. 5.

were taken into the King's hands, who appointed Seneschals to manage and preserve them in the different counties where they were situate.

To him succeeded James his son and heir, the third Earl of Ormonde and fourth of Karrick, who frequently filled the situation of Chief Governor of Ireland, and died in the year 1405, leaving two sons James and Richard.

James, the eldest son and heir, and fourth Earl of Ormonde, succeeded, and was on several occasions entrusted with the government of Ireland. His patent for this purpose in 1425 is extremely ample in its powers of holding Parliaments, and summoning to them the Magnates, according to the custom of the country.

This nobleman, however strenuously exerting himself as Lord Lieutenant for the extension of the King's authority, was swayed by a spirit of equity towards the native Irish, which brought on him the enmity of many in the English pale. This was ultimately displayed in a remonstrance forwarded to the King in England, charging the Earl of Ormonde with an offence then of a truly serious nature, being no less than his admitting some of the natives to be knights of the shire, "the which wolde not in no wyse assent to no good rule, nor to no thing that shuld profite and avaylle to you, Soverain Lord;" but the King considered the complaint to be groundless, and declared that the Earl of Ormonde was faithful in his allegiance, meritorious in his services, and untainted in his fame: that no one should dare, on pain of his indignation, to revive the accusation or reproach his conduct, and that his accusers were men of no credit, nor should their testimony be admitted in any case. At his request the King, by charter, in the year 1451, incorporated that fraternity which is now called "the Guild of Merchants" in the city of Dublin, and in the charter for that purpose his Lordship's name stands first amongst the members so incorporated.

The Earl died in the year 1452, and was succeeded by his son and heir James, the fifth Earl of Ormonde and sixth of Karrick. In this nobleman's time, when military services

were beginning to decline, the Barons were permitted to appoint and retain "men of armes," who attended for them in the King's wars abroad, performing those services which they owed the Crown by their feudal tenures; accordingly we find "Sir James of Ormonde, son and heir of the Earl of Ormonde," executing on the 29th March, 1441, an Indenture with "Thomas Waleys, gentilman of Ireland," the stipulations contained in which were, "That the said Thomas ys belaste and witholden towarde the said Sir James for an hole yere to do hym ſ̄vce of werre yn the parties of Fraunce and of Normandye yn all places where as hit shall like y^e seide Sir James to ordaine and comaunde hym, as a Man of armes, with 3 archers in his companye all on horsback, and well chosen men and likely psons, well and sufficiently armed, horsed and arraied eȝy man after his degree, y^t is to say, y^t y^e said Thomas have harneys complete with *bassenet* or *sallades* with *visare*, *spere*, *axe*, *swerde* and *daggere*, and all the saide archers specially to have *good jakkes* of defence, *salades*, *swerdes*, and *sheves* of 40 *arroes* atte leste. And the said Thomas shall take wages of y^e saide Sir James yn mañ folowynge, that ys to say, for hymself 12^d sterling y^e day wth y^e reward accustomed, and for eȝy of y^e said archers 6^d sterling y^e day, of the which wages and rewards he shall be paied before y^e honde for a quart^r of a yere by way of prest, and for the secunde quart^r y^e day y^t he shall make first his moustres of hymself and his saide archers on the Sea-syde, or where as the seide Sir James will ordeyne hym to do. And for the other half yere, he shall be content and paied for himself and his saide archers yn Fraunce and yn Normandye after y^e wages of Fraunce. And after their moustres and revenues yn money of Fraunce &c. And the said Sir James shall have as well y^e thridde part of y^e *wynnyng of werre* of y^e said Thomas as y^e *thridde part of the thriddes of y^e seide archers* during y^e said tyme; and the said Thomas shall have all the *prisoners of warre*, yf any be taken by hym or by any of his saide archers during y^e saide tyme, except *Kyngs*, *Kynge's sons*, and *other Capitans and Men of Kynge's blood*," &c.

Original,
T. L.
19 H. 6.

Lords'
Committ.
Reports.

Pat. Roll,
3 E. 4. 81.

James the fifth Earl of Ormonde was created in 1449 Earl of Wiltshire, to him and the heirs male of his body, and had summons as "Jacobus Comiti Wiltes," to the various Parliaments held in England, from the 27th to the 38th of Henry the Sixth. Taking, however, a leading part in that kingdom against the House of York, he was attainted on the accession of Edward the Fourth, and being made prisoner at the battle of Towton, he was soon after beheaded; but by a statute passed in 1475, in the same reign, "Sir John de Ormonde, alias John Botiller," his brother and heir, was restored to all the estates, name and dignity of his brother and family.

John the sixth Earl of Ormonde was much in favour with the King, who (according to Mr. Lodge) pronounced him to be "the goodliest Knight he ever beheld, and the finest Gentleman in Christendom; and that if good breeding, nurture and liberal qualities were lost in the world, they might be all found in John Earl of Ormonde."

He was succeeded by his brother and heir, Thomas the seventh Earl, who was also restored in blood by several statutes, and sat in the English Parliament as "Thomas Ormonde de Rochfort chivaler," from the year 1496 to 1511. During the reign of Henry the Seventh, his presence is frequently recorded in the Parliament Rolls as "Le Sire d'Ormond," and as "Dominus de Ormond." Having died without issue male, the honours and estates in England were inherited by his two daughters and coheirs, Anne and Margaret: through the latter of whom, Margaret, who was grandmother of Anne Boleyn, and great grandmother of the Princess ELIZABETH, he became progenitor of the most renowned and illustrious Queen that ever enjoyed the Crown of England.

Though many of the early grants already noticed for support of their dignities were made to the Earls of Ormonde in *tail male*, yet it appears that on this occasion, following the strict words of the charter creating the earldom, the Crown considered that dignity to be in abeyance between the coheirs of Earl Thomas; and in the year 1529, Sir Thomas BulLEN, Viscount Rochfort and Earl of Wilts, as son of Margaret, one of the coheirs, was created Earl of Ormonde to him and

his heirs, by which exercise of the Royal prerogative the abeyance became determined. Before the death of this Sir Thomas Bullen Earl of Ormonde, which happened in the year 1537, George Lord Rochfort, his only son, had been attainted and beheaded, so that of the two daughters and coheirs of this Earl, namely Anne and Mary, Anne marrying King Henry the Eighth, her rights as the eldest coheir came to that Monarch, and afterwards by a statute in the 28th year of his reign, all the rights of the coheirs of Thomas Earl of Ormonde in Ireland were resumed and revested in the Crown for ever.

Statute
of Ireland,
28 H. 8.

Meanwhile, Sir Pierce Butler, the eldest heir male of the family, (eldest son of Sir James d'Ormonde, whom Thomas the seventh Earl in a record in the Tower of London styles "Jacobum Ormond *nepotem meum*,") inherited such portions of the estates as were settled in tail male; and on the 23rd of February 1527 was elevated to the Peerage as Earl of Ossory, to him and the heirs male of his body for ever, with £20 per annum for the better support of that dignity. On the 26th of February 1534, the King conferred on his Lordship, in consideration of his good service in the wars, the Governorship of the castle, honour, and manor of Dungarvan, at the yearly fee of £100 during his life, with reversion to his son and heir James, &c. provided that they recovered the said castle from the Earl of Desmond.

Pat. Roll,
Rolls
Chap.
Lond.
19 H. 8.

Chancery
Roll. Dub.
19, 25 H. 8.

The title of Ormonde was thus for a season out of the family, yet the prisage of wines devolved on this Earl of Ossory; and it is curious that in a decree pronounced the 1st June 1528, "in the *Starred Chamber* at Westminster," when prosecuting his ancient hereditary right to the prisage of wines, he is described as "*Sir Pierce Butler named Lord Ormonde*;" but on the death of Sir Thomas Bullen, on whom the King had conferred the Earldom under the circumstances connected with the coheirs already mentioned, his Majesty, in the year 1537, granted and confirmed by letters patent all the lordships and manors anciently belonging to the family in the counties of Kilkenny, Tipperary, Carlow, &c. to "Pierce Butler, *Earl of Ormonde and Ossory*, alias Pierce

Record-
er's Book,
Town
Clk's Off.
Dublin.

Chief Re-
memb.
Roll, Dub.

“Butler Knt. Earl of Ossory, alias Pierce Butler, Earl of Ormonde and Ossory,” and James his son and heir, and to their heirs male for ever.

MSS. Trinity Coll. Library, Dublin.
F. 1. 21.

Earl Pierce was married to Margaret, “the fairest daughter,” as ancient manuscripts expressly call her, of Gerald Earl of Kildare; and on his death in 1539, James his son and heir succeeded, and sat as Earl of Ormonde in the Parliament held in the 33rd Henry VIII. This fact is stated in the certificate sent to the King by the Deputy and Council of Ireland in that year, whereby we find there came to that Parliament “the *Earls of Ormonde and Desmonde*, and with them the “Lorde Barre, the Lord Roche, the Lorde Fitzmorris, and “hither came also the Lorde Bermyngham of Athenry in Connaught, which Lords have not been here of many years before.”—And that also the Speaker of the House of Commons, Sir Thomas Cusacke, when presented, “made a *right goode proposition in lawde and praise of youre Majesty most worthily deserved*, &c. which after being answered by your Grace’s “Chaunceler in English, and by therle of Ormond declaryd “in Yrish, mooch contented the said Lords and Commons.”

Records State Paper Off. London.

In the year following, an Act was passed, which, after reciting many curious particulars of the family descent, and that the King had already styled Sir Pierce Earl of Ormonde by his letters patent, enacted that the said Earl James and his heirs male should inherit and enjoy the name, honour, title and dignity of Earl of Ormonde, with the annuity of £10 out of the city of Waterford, *with the same preeminence, &c. as any of his ancestors.*

Attested Copy Stat. Parliament. Record Off. Dublin Castle.

To him succeeded his son and heir, Thomas the tenth Earl of Ormonde, whose right to the Butlerage being denied by the Merchants of Wexford, from whom his servants had demanded “twoe tonnes of sacke,” as his prisage on a certain cargo of Spanish wines there imported, the Earl, when pleading his title to the Butlerage, alleged that such office and prisage was in him and his ancestors *from time immemorial*, that it was subsequently confirmed to them by divers Royal grants therein specified, and that the duty consisted

“ of one choyse tonne of wyne out of every shippe or bot-
 “ tome arriving and contayning nyne tonnes of wyne, and
 “ twoe choyse tonnes of every shippe or bottome so arriving
 “ and contayninge 20 tonnes of wyne or upwards.”

Chief
Rememb.
Roll, Dub.
7 J. 1.

Earl Thomas having taken a distinguished part in the public events as well of his own country as of England, died in the year 1614, leaving by Elizabeth daughter of Lord Sheffield an only daughter Elizabeth, who being married to Sir Richard Preston, created by James the First Lord Dingwall in Scotland and Earl of Desmond in Ireland, the next heir male and hereditary Chief Butler, Walter the eleventh Earl of Ormonde, was sued for a large portion of the family estates in her right. This case is reported by Chief Justice Hobart, to whom with the other Judges the King referred it; and from a note in whose report James's decided partiality to Sir Richard Preston may be inferred. When voluntarily undertaking to arbitrate between the parties, the King bound each in 100,000*l.* to abide his decision, and hence, on the refusal of Walter Earl of Ormonde to submit to the Royal judgment, he was committed to the Fleet, where he was suffered to remain for eight years shamefully immured. But this was not the least exceptionable part of James's conduct; it seems by the terms of the bond, that the above sum of 100,000*l.* was conditioned to be paid, by the person not abiding by the decision, to the other party; and when it was found that the Earl of Ormonde would not submit, Sir William Ryves, as Attorney General, came into the Court of Exchequer in Easter Term and claimed the 100,000*l.*, not for Lord Dingwall, but for the Lord the King, to whom it was assigned, as the pleadings set forth, by the deed of the said Richard Preston Lord Dingwall, in payment of some alleged debts. Lord Ormonde pleaded, but the King's adjudication was produced (wherein we find it recited that the English Judges first consulted declared they knew not what decision all the other Judges would make, from the doubts and difficulties of the case) as also the bond, and judgment was given for the King. In consequence, the great estates of the Earl

Ch. Just.
Hobart's
Reports.

Judgment
Rolls,
Chief
Rememb.
Off. Dub.

were seized, and the King granted them, during pleasure, to two other favourites, by letters patent dated the 14th of February, in the 18th year of his reign.

To Walter Earl of Ormonde succeeded, in 1632, his grandson and heir James, generally styled "the great Duke of Ormonde," a nobleman of such celebrity, and whose name is so intimately connected with the public transactions of England and Ireland during the seventeenth century, that an eminent author (Carte), in writing an account of this Duke's life and actions, conferred on posterity a most valuable and authentic piece of national history. Whatever objections may be offered by some writers to the political conduct of his Grace, yet it must be conceded to him, that never was a statesman before his time placed in circumstances more arduous, embarrassing, or unprecedented: it should also be recollected, that when by the prevailing influence of his political opponents in the King's Councils it was determined that all the statutes of a particular description passed in England during the reigns of Edward the Sixth, Elizabeth, and James the First, should be enacted in the Parliament of the Sister Country, the Duke of Ormonde, though no longer able directly to oppose the measure, was the means of averting this cruel visitation from his country.

Chan.
Rolls,
Dub. and
Originalia
Rolls,
13 and 14
Charles 2.
Somerset
Hou. Lon.

See Chap.
VIII.

The Duke obtained confirmation of all his ancient paternal property by several patents and statutes, in which he is styled James, Duke, Marquess, and Earl of Ormonde and Ossory, Viscount Thurles, Lord Baron of Arklow, Lord of the regalities and liberties of Tipperary, Baron Butler of Lanthony, and Earl of Brecknock in Wales, &c.; and as it is elegantly but truly expressed, "*COMES EX COMITIBUS PRÆDICTÆ ORMONDIÆ per circiter quatercentum annos SEMPER INTACTÆ FIDELI, SEMPER AUT BELLO AUT PACE CONSPICUIS.*" His Grace, with the Earls of Ossory and Arran, presented what was then considered a singular spectacle, as he for some years sat in the English House of Peers at the same time with his two sons, the above-named noblemen, the eldest of whom was Knight of the Garter as well as the Duke his father. In 1660 King Charles the Second

granted to his Grace, by letters patent, the forest and chace of Exmore in the counties of Devon and Somerset ; and in 1661 conferred on his son Thomas Earl of Ossory extensive lordships in the counties of Lincoln, Northampton, Huntingdon, and Cambridge.

*Originalia
Rolls,
12, 13
Charles 2,
Somerset
Hou. Lon.*

James, the eldest son of the "gallant Ossory," succeeded his grandfather in 1688, and became the thirteenth Earl and second Duke of Ormonde, who, as commander in chief of the British army, received the thanks of both Houses of Parliament, and was advanced to some of the highest trusts under the Crown ; but on the accession of King George the First, this nobleman, amid all the excitements of that period, was impeached ; and flying into France, his titles were attainted and his estates confiscated by a statute passed for that purpose in England. By an act also passed in Ireland, the 2nd Geo. I. all the royalties, jurisdictions, liberties, &c. which he or his ancestors used and exercised in Tipperary were annulled, all other his estates were vested in the King, and the palatinate of Tipperary being abolished, the rolls and records thereof were deposited in the Rolls Office of Chancery pursuant to an Act of Parliament. However, by an English statute passed in 1721, his brother, the Earl of Arran, was enabled to purchase the estates ; and he, after his Grace's death without issue male at Avignon in 1746, succeeded as heir and representative of the Chief Butlers of Ireland.

From this nobleman's time until the year 1791 the ancient honours of the house of Ormonde remained dormant ; but in that year John Butler, Esquire, of the Castle of Kilkenny, great grandson of the Honourable Richard Butler, brother of the first Duke, being in possession of the extensive family estates, after the usual petition and reference proved his descent before the officers of the Crown, and was restored to the Earldoms of Ormonde and Ossory, Viscounty of Thurles, &c. and as such, his Lordship received his writ and took his seat the 6th April 1791. But it should be observed, that notwithstanding the multiplicity of proofs and documents still to be found respecting his Lordship's right as heir-male

to the ancient feudal Barony of Arklow, it does not appear that his claim to that dignity was then supported. No statute of restoration was considered necessary on this occasion, as the title had not been attainted by an Act of the Irish Parliament.

To him succeeded Walter, late Earl and Marquess of Ormonde, who was created a Baron of the United Kingdom in 1801, but dying without issue in the year 1820, the honours devolved on his brother and heir,

James the present Marquess of Ormonde, K. P. created Baron Ormonde of Lanthony, in the county of Monmouth, in 1821.

His Lordship is the nineteenth Earl of Ormonde, and the twenty-fifth Lord Chief Butler of Ireland, and as such had his place and rights allowed him at the Coronation of his present Majesty; and though by the acts of the 46th, 50th, and 51st of Geo. III., the profits of the Butlerage and prisage were purchased from Walter the late Marquess for £216,000, and vested in the Crown for the benefit of the public, yet this ancient hereditary dignity was not otherwise affected by these enactments, but still exists to the heir male of the original grantee.

It may be in conclusion stated, that the Butlerage of Ireland is the most ancient hereditary dignity now enjoyed by the heirs male of any family in Great Britain: that from the year 1247 until 1710, a period of more than four centuries and a half, the Chief Butlers and members of this family have been entrusted with the government of Ireland on thirty different occasions: that twenty-five patents, ennobling various branches of the house, have issued from the Crown, amongst which may be enumerated not only Peerages of England and Ireland, but also of Wales and Scotland; and that of no other family do so many ancient baronial and castellated mansions still remain, as of the house of Butler in Ireland.

SECTION V.

LORD HIGH CHAMBERLAIN. — According to a Noble Author, whose deep research and talents have thrown much light on early British history, the office of High Chamberlain, or King's Chamberlain, being one of eminent dignity and great power in the King's Court, was given by Henry the First, on the forfeiture of Robert Malet, to Alberic de Vere and his heirs, and in the descendants of this Alberic de Vere, successive Earls of Oxford, as appears from other authorities, the Chamberlainship of England remained vested for some centuries. In Ireland Prince John, after being vested with the dominion of that country, appointed his Chamberlain, and granted, for homage and service to be rendered the Prince and his heirs, to him and his heirs an estate in lands, with lodgings and entertainment similar to those accommodations which we find were enjoyed by the Chamberlain of England. This appears by John's charter to "Alardo filio Willielmi," his Chamberlain, dated in the year 1185, and now of record in the Chief Remembrancer's Rolls. The operative words of this charter are comprised perhaps in the following clauses.

"John, son of the King of England, and Lord of Ireland, to all, &c. Know ye, &c. that I have given and confirmed to 'Alardo filio Willielmi,' MY CHAMBERLAIN, for his homage and service near Waterford, the land of Kareckevard and Careckeghon with their appurtenances, and his *entertainment* in Waterford in the house of John the Bishop, and his *entertainment in the Island* in the house of Henry Hoth, with twenty acres of land; also his *entertainment in Wexford* in the house of Richard the door-keeper, and his *entertainment in Dublin in the house* of John the (Arch) Bishop, and his *entertainment near the Castle of Kildare and in Wicklow*, &c. ; to hold of me and my heirs, by the service of six pair of furred lambskin gloves and one thabur yearly at Michaelmas Term. I also have granted him in the same lands, (except the Island,) *sac, soc, tol, them, infangthef*, and the *judgment of water and of iron*, and the *pit and the gallows*. Further, I have granted him the hunting of stags, deer,

Lord
Lyttelton.

Chief Re-
memb.
Roll Dub.
10 E. 1.

“hares, foxes, &c. and all other liberties which appertain to
 “the land. Wherefore I will, &c. that he and his heirs may
 “have and hold, &c. Witness, Bertram de Verdun,” &c.

Original
 Charter in
 Author's
 Collec-
 tions.

Though the Chamberlain is mentioned afterwards in various documents, and particularly as a witness to the charter granted to Mellifont Abbey in the year 1185, yet nothing further has been collected as to the descent of his dignity in the family of Alard or Alured Fitz William. This however is easily accounted for, when it is recollected that the duties of Chamberlain at that period, and for centuries after it, were almost wholly connected with the King's household and person; and as no King of England went to Ireland for nearly two hundred years after King John's last residence there in 1210, we may fairly presume this high honorary dignity soon fell into desuetude.

SECTION VI.

STANDARD BEARER.—But amongst the highest and most ancient of those honorary offices, there was one which must have ranked as a dignity of the greatest trust, not only in England and Ireland, but in all those other countries where military services and military tenures constituted, as it may be said, the very basis of government. This was the office of **STANDARD BEARER**, which was originally enjoyed in England by the Lord High Constable—the premier dignitary of the King's Court. In the twelfth century, when Henry the Second encountered the Welsh, his hereditary Standard Bearer, Henry de Essex, threw the Royal ensign to the ground through fear, and proclaimed that the King was slain: notwithstanding the King's having overlooked this offence, and that Henry de Essex had borne himself gallantly in the Toulouse war, and was eminently illustrious in blood and alliances, yet such were the dignity and public responsibility of this office, that the Royal favour could not screen him from punishment. A brother Baron, Robert de Montfort, accordingly, we find, publicly arraigned him for his cowardice, and accused him of high treason. Charged by one of his

peers with so high an offence, De Essex sought to clear himself by the trial by duel or single combat in the King's presence, and was vanquished by De Montfort. The King, however, would not enforce the legal penalties of an ignominious death, or loss of eyes, which awaited on such an occasion; but permitted De Essex to take the religious habit in the Abbey of Reading, "the only state proper for him, as the rules of chivalry in those days would not allow him to continue any longer in the world, or hold lands by knight's service under such a load of public dishonour." From this historic incident we may form some opinion of the high and honourable responsibility formerly attached to the hereditary dignity of Standard Bearer—a dignity which in Ireland from time immemorial has been enjoyed without default or accusation by the family of Wellesley.

According to tradition, the family of Wellesley was formerly seated in Somersetshire, whence one of its leading members proceeded to Ireland as Standard Bearer under King Henry the Second. On referring to the Rolls in the Tower of London, we find there (what may appear in some measure corroboratory of this tradition) that *Avenant de Wellesley* was King's Serjeant of all the country lying East of the river Peret in Somersetshire, which serjeantcy he obtained in fee by a charter from King Henry the First; and it appears also from other authorities that this family had resided in the county of Somerset, and were of considerable rank even long before the Norman Conquest, for Mr. Camden describing that shire, quotes the writings of William of Malmsbury respecting two ancient pyramids there, on one of which was the name of the family according to its ancient orthography. William of Malmsbury says those pyramids in his time were "ready to fall down for antiquity;" and as he died in less than ninety years after the Conquest, it is safe to presume that the erection of such pyramids must have been long before that epoch. The town of "Wellington" also in that neighbourhood, the same learned antiquary tells us, was existing in the time of "Edward the Elder." These

Charter
Roll, T.L.
5 E. 3.

Patent
Roll, T.L.
27 H. 6,
&c.

Camden
Britann.

circumstances are however only here noticed with a view to shew that some reasons exist for the tradition or general reputation above mentioned.

Black
Book,
Archdio.
Dublin.

Amongst some of the earliest records now existing in Ireland, documents appear relating to the branch of the Wellesley family which settled in that country. "Walleran de Wellesley," with the Bishops of Meath, Ossory, and Waterford, inspected and exemplified a King's charter, dated the 8th of November 1230. Before this Walleran, in the year 1258, a final agreement respecting the advowson of the church of Trim was entered into between Geoffrey de Geynville and Matilda his wife, and the Bishop of Meath. During that reign also, while the administration of justice was generally deputed to the nobility by the Crown, we find him acting frequently as one of the King's Judges, and in the year 1269 we find him amongst the "EPISCOPI and BARONES HIBERNIÆ," acting in that capacity with John Fitz Thomas, Maurice Fitz Maurice, and Walter de Burgo, ancestors to the Earls of Desmond, Dukes of Leinster, and Earls of Clanrickard. By this Walleran de Wellesley the Priory of All Saints was endowed with sixty acres of land within the manor of Creevach, which, it appears, with other estates elsewhere, belonged to his family, and he granted the said priory free common of pasture, of wood and of turbary over his whole mountain there, reserving to himself and his heirs however the homage of his tenant, John Wodeloc. To his son and heir Sir Walran de Wellesley, amongst the rest of the nobility of Ireland, King Edward the First directed several of his writs respecting the Scotch wars, &c. and to William de Wellesleye King Edward the Second committed the castle of Kildare, then one of the principal fortresses within the English districts. Afterwards, however, when John Fitz Thomas was created Earl of Kildare and had this castle conveyed to him and his heirs male, the services of William de Wellesleye were declared in Parliament, as we find in the roll of the 14th year of King Edward, wherein it is stated that the castle of Kildare had been granted to

Records
Town
Clk's Off.
Dublin.

Close Roll,
T. L.
30 E. 1.

Chief Re-
memb.
Roll, Dub.
3 E. 2.

the said William for life, in return for services which he and his ancestors had rendered to the King and his progenitors; that when the Scotch under Bruce invaded Ireland, he sustained a siege for three days in the castle against the enemy, during which he lost many of his kindred; and that in consequence of these and other circumstances the above grant to John Fitz Thomas had caused him a loss of £500.

John de Wellesley also during this and the next reign was a baron of considerable influence: to him in 1315 the barons, knights, and freeholders of Kildare county voted a suitable reward for his great expences incurred, and the valour which he displayed in preserving the security of that county. In the year 1332 King Edward the Third issued his writ to the Archbishop of Cashell, William de Burgo Earl of Ulster, Sir John de Wellesley, and others of the Spiritual and Temporal Nobility, acquainting them that he had sent over Roger, Prior of Saint John of Jerusalem, for certain purposes of state, and therefore enjoining them to aid and assist the said prior, and as they regarded the King's honour to render him their *counsel, aid, and advice*. In three years after, the same Sir John de Wellesley knight, with James Earl of Ormonde, Maurice Earl of Desmond, and other Barons, had the King's writ of military summons to attend his Majesty in England with men, horses, and arms against the Scotch, who, as the King describes, were intent on the invasion of England. Amongst the peers who in full parliament became sureties for the Earl of Desmond that he would appear at the next parliament like the other nobles, and thereby obtained that Earl's release from the prison of Dublin Castle, was John de Wellesley, Chevalier, as also William de Wellesley; but the Earl not afterwards appearing, and their guarantee being "corpus pro corpore" in two months' notice to produce him under penalty of loss of their lands, &c. all their estates were seized on by the Crown, and remained in the King's hands until the year 1355, when, in consideration of their good services, the King by letters patent restored their estates to William Earl of Ulster,

Chief
Rememb.
Roll, Dub.
6, 7 E. 2.

Close
Roll, T.L.
6 E. 3.

Scotch
Roll, T.L.
9 E. 3.

Chief
Rememb.
Roll, Dub.
7 E. 3.

Patent
Roll, T.L.
29 E. 3.

James Earl of Ormonde, John Wellesley Chevalier, William Wellesley, and to the other barons who had entered into the above sureties.

Close
Roll,
Ch. Dub.
46 E. 3.

Chief
Rememb.
Roll, Dub.
47, 48 E. 3.

Cl. Roll,
Ch. Dub.
48 E. 3.

Ch. Rem.
Roll, Dub.
17 R. 2.

Pat. Roll,
Ch. Dub.
8 R. 2.

Ch. Rem.
Roll, Dub.
10 R. 2.

Ch. Rem.
Roll, Dub.
10 R. 2.

Chief
Rememb.
Roll, Dub.
17 R. 2.

The son and heir of this Sir John was William Wellesley, who on coming of age was attached or arrested for not answering in the Exchequer for his father's estate, by William de Karlell, one of the barons of that court; and in the following year Richard Bateman was found guilty of contumelious words, having said that William de Karlell, the Baron of the Exchequer, was *not worthy of arresting so great a Magnate* as William de Wellesley, and that only he acted then in the King's service he should regret his doing so while he lived. The name of this Sir William is included in the writ of Parliamentary summons of the 46th Edw. III.; and in two years after he was specially summoned to another Parliament, as he was again in the 17th year of Richard the Second. To him, in the year 1385, was committed the Castle and Lordship of Carbery, Tottemoy, &c. with the office of Custos and Governor of those lordships. In two years after he was appointed by Royal commission to enquire into and redress the oppressions committed by Philip de Courtenay, the King's cousin, while Lord Lieutenant of Ireland; and in the same year, jointly with Maurice Earl of Kildare and others, he was empowered to appoint persons who should collect the "*smoke silver*," that is, *one penny out of every house through which smoke came*, and with such monies to pay those who kept *watch and ward* in the districts therein described. In the year 1395, it having been shewn that he had been a long time Sheriff of the county of Kildare, and had been at his own expence with men and arms in his train in the King's wars, wherein he lost several of his family, besides his horses and military stores, the King, taking such services and losses into consideration, ordered that due compensation should be awarded to Sir William. By King Henry the Fourth he was appointed Custos of his own county, &c.; and it may be truly said that few persons of that period discharged more numerous and more important public trusts.

He was succeeded by Richard Wellesley, who acquired extensive estates by his intermarriage with Johanna, one of the coheiresses of the noble houses of Cusack, le Tuit, &c. ; and on the 27th of January, 1413, he obtained letters patent from the Crown pardoning his entry into possession of her estates. Amongst them was the lordship or manor of MORNINGTON, at that period called Marinerston, and which in charters dated about the year 1200, is styled "*Villa Marinarum*."

Chief Rememb. Roll, Dub. 3 H. 5. 2 H. 6.

Sir Richard's eldest son and heir by this marriage was William Wellesley, who, dying without issue, was succeeded in the estates by his brother and heir Christopher, to whom King Henry the Sixth, on the 22d of September, in the year 1441, granted livery and possession of the family inheritance, with a saving of their dower however to Johanna and Katherine, widows of his father and brother.

Close Roll, Ch. Dub. 19 H. 6.

Christopher's son and heir was William Wellesley, whose wardship was granted by the King to Thomas Plunket and James Wellesley Esquires. By an Act of Parliament passed in the year 1472, it was enacted that a certain cess should be levied in the county of Meath, and paid to Edmund Wellesley towards building a castle in Leracor, which was part of the estate of William Wellesley, the minor, just named. After arriving at full age, this Sir William Wellesley, of Dangen, knight, married Ismay Plunket, grand-daughter of the first Baron of Killeen, and sister to Eliza wife of the Lord Baron of Trimbleston, as also sister to Margaret wife of Sir Barnaby Barnewall, in 1480 Justice of the King's Bench, whose epitaph in ancient characters is still legible on the front wall of Stackallan church, in the county Meath ; and on Lady Ismay's death Sir William having married Matilda O Tothill, (a descendant of the chieftains of Imaal, whose names will be found in the early Kings' writs of Military summons,) he obtained letters patent from the Crown, dated the 3d May, 1497, granting English laws and English liberties to her and their issue—a measure then absolutely necessary, in consequence of many statutes in force against alliances with the natives.

Chief Rememb. Roll, Dub. 5 E. 4.

Statute Roll, Ch. Dub. 12, 13 E. 4.

Chief Rememb. Roll, Dub. 13 H. 7.

Ch. Rem. Sir William's son and heir by this marriage was Gerald,
 Roll, Dub. who had a grant of livery of his estates from the Crown in
 21 H. 7. the year 1502; and in the following year this Gerald confirm-
 Ch. Rem. ed to Gerald Earl of Kildare, the property granted to him
 Roll, Dub. by his father. He died before the year 1539, when livery was
 5, 6 H. 8. granted by Henry the Eighth to his son and heir "Wil-
 Ch. Rem. liam Wellesley of Dangin, otherwise William Wellesley, son
 Roll, Dub. and heir of Garret Wellesley late Lord of Dengyn, otherwise
 30 H. 8. William Wellesley of Dangyn, Lord of Dengyn," &c.; and in
 Ch. Rem. the following year this Lord William did homage in the Ex-
 Roll, Dub. chequer for Dengyn and his other estates.
 32 H. 8.

After the death of the last-named Lord William, viz. on
 Monday before the feast of Saint Luke, 1538, an inquisition
 was held by the Barons of the Exchequer to ascertain what
 property belonged to him in Ireland, and what services he
 owed to the Crown for such property, who was his next
 heir, &c. And by this inquisition it was found that he died
 seised of several manors, and amongst others of the manor of
 DENGIN with its appurtenances in the county of Meath; that
 the said manor was held of the King as of his manor of Trim
 by the service of GRAND SERJEANTCY, that is to say, by the
 service of BEARING THE STANDARD OF THE LORD THE
 KING; and that Gerald Wellesley was his son and heir, and
 became possessed of the said estates in his demesne as of fee.
 Another inquisition was held before the Crown officers in
 the year 1550, when it was again found that the Wellesley
 family held the manor of Dengin of the King as of his
 manor of Trim by GRAND SERJEANTCY; viz. by BEARING
 THE STANDARD OF THE LORD THE KING IN HIS WARS
 IN IRELAND.

Chief Rememb. To his son and heir Gerald Wellesley a pardon of intru-
 Roll, Dub. sion was granted by letters patent of Philip and Mary; and
 1, 2 E. 6. on the 18th of February, in the year 1558, he obtained a
 Ch. Rem. grant of special livery of all his father's estates in Dengyn and
 Roll, Dub. elsewhere. To this Gerald Wellesley and his kinsman Sir
 6 E. 6. George Cowley of Edenderry, who was created by patent
 Ch. Rem. Seneschal and Captain of Carbery lordship, Margaret his
 Roll, Dub. wife and others, Queen Elizabeth granted letters patent, re-
 36, 39 Eliz.

mitting all fines incurred for alienating the manor of Edenderry, the rectories, tithes, and advowsons of Ardnurcher, Castlecarbery, &c. the estate of the said Sir George, which he derived from his father Sir Henry Cowley, a privy councillor, the son of Sir Walter Cowley, who was created Solicitor-general of Ireland by letters patent dated the 7th of September 1537, all which estates were afterwards, with the abbey and advowson of Kilcormuck, on the 31st of January 1579, granted to the said Sir George and his heirs male, they establishing a free school on the estate, &c.

Ch. Rem.
Roll, Dub.
33 H. 8.

Ch. Rem.
Roll, Dub.
21 to 24
Eliz.

Inq. Chan.
Dublin.

This Gerald died in the year 1603, leaving his grandson Valerian Wellesley, then aged ten years and five months, as his heir; and by an inquisition held before the Crown officers it was found that they held the manor of Dangen by the service of bearing the standard of the Lord the King.* Few stronger instances occur of the slavish severities with which the Feudal system of wardship and marriage

* In the Volume of Inquisitions printed under directions of the Irish Record Commissioners, the *ordinary* tenures and services are specified with minute particularity; but the above *extra-ordinary* service, so unique as it may be called in Ireland, and which, as a service in Grand Sergeantcy, bespoke the highest and most honourable Tenure known to the laws of England, is wholly omitted in that volume. Such an omission appears unaccountable; but as it only affects the rights of one family, it yields in consideration to others bearing directly on rights of a public general nature. In the printed Calendar to the Patent and Close Rolls, for instance, grants of such peculiar privileges as *sack*, *sock*, *infangthef*, *outfangthef*, &c. are also with few exceptions wholly omitted, although the high legal import of those terms, as distinguishing rights of the Great Barons or Parliamentary Peers, has long been decided: in the same Calendar the writ respecting Walter Lenfaunt, and other important documents, are abstracted in such a manner as to give little suspicion that the originals contained most essential information as to the rights and laws affecting the Parliamentary Baronage of Ireland. For these serious omissions a desire for brevity cannot be pleaded in excuse, as all the valuable data thus withheld would scarcely have added two additional pages to the size of those large publications. The author however, under such circumstances, feels happy that his collections from the Original Records had been made before the Volumes alluded to were published; otherwise, perhaps, thinking it impossible that any persons could manifest inattention or indifference of this description when entrusted with so important a duty, he might have contented himself with the imperfect information thus afforded.

was attended in the seventeenth century than a circumstance relating to this Valerian: in fact, so far had this system been extended, or perhaps perverted, for the profit of the Crown and its officers, that after leading to the civil wars in England, its total abolition there as well as in Ireland became a measure of the soundest policy on the restoration of King Charles the Second. It appears that this Valerian being a minor, and holding in capite of the King, his wardship and marriage, according to the practice of that day, were conferred on some individual by the Crown. This person (whose name does not appear), notwithstanding the infancy of his ward, had, it seems, contracted him in marriage with Mary Barnewall, daughter of Sir Patrick Barnewall, and sister of Nicholas the first Viscount Kingsland, on the day of his grandfather's death, when he had not yet reached the eleventh year of his age. Against this unjust proceeding, however daily practised at the time, there was but one mode of redress, and that not until the minor arrived at the age of fourteen, when he was allowed to protest against such marriage contract before the Barons of the Exchequer. Accordingly, on attaining that age, this Valerian Wellesley went personally to the Exchequer, and there in full court, on the 27th of November 1606, made before the Barons this his protest against the marriage contract:—

Chief
Rememb.
Roll, Dub.
4 J. 1.

“ Right Honourable. — Understandinge by some of my
 “ friendes that I am nowe come to the age of fourteen yeares,
 “ and that *I was contracted the daye of my grandfather's*
 “ *death* to Mrs. Marie Barnewall, daughter to Sir Patrick
 “ Barnewall Knight, and that now is the tyme for me to
 “ agree or disagree thereto, and thereby to bynde or leave
 “ me at libertie; and being fully resolved in my owne mynde
 “ to keepe my selfe at libertye untill God shall graunt me
 “ best judgement to make choice for myselfe, I do therefore
 “ disagree to the contracte or marradge betweene me and
 “ the sayd Mrs. Marie Barnewall, if any such there were,
 “ and do wish that her parents may provide otherwise for
 “ her, not doubtinge but that they may so doe when they
 “ will. But in the mean time I beseeche your good Wor-

“ ships to take notice of my disagreement to the said supposed contracte or marriage; and so in all humblenesse I take leave, and will evermore remaine your Wor. most dutefully to commande.”

“ V. W.”

The manor of Dangen, with the office of Standard Bearer, remained in possession of the above Valerian Wellesley, who sat in the Parliament of 1634—of his son Gerald, who was also in Parliament in the year 1692,—and of his grandsons William and Garret, who sat in Queen Anne’s Parliament, through all the calamities which befell the more eminent families of Ireland during the seventeenth and part of the eighteenth centuries; and from them it descended to the present STANDARD BEARER, the Most noble RICHARD WELLESLEY, MARQUESS and VISCOUNT WELLESLEY, EARL and BARON of MORNINGTON, &c. who at the Coronation of his present Majesty was allowed his rights and precedence, as HEREDITARY STANDARD BEARER OF IRELAND. It is worthy of remark, as perhaps a singular coincidence, that an illustrious nobleman, a brother of this preeminent dignitary, and a descendant of the ancient Standard Bearers of Ireland, has carried the British flag further and more triumphantly than England, even in the martial days of her Talbots, ever contemplated that proud emblem should be borne.

SECTION VII.

CHIEF SERJEANTCY.—In the year 1192 there was created in Ireland an hereditary office of an honorary nature, though perhaps not classing with those high dignities of which we have just treated. This was the office of Grand or Chief Serjeant of Ireland, whose duties were originally connected with the *Aula Regia*, or *Curia Regis*. In that court, as a court of justice, he resembled the modern sheriffs; and there also, as in the high court of Parliament, part of his duties were similar to those now rendered by the Serjeants at Arms attendant on the Houses of Legislature. After the more regular establishment of parliaments in England, the King

appointed additional serjeants to attend both Houses, that so that assembly might have a continuance of this officer's services; and hence, it is said, originated the attendance now of serjeants at arms on both Houses of Parliament. But it does not appear that in Ireland, after the change above described, the King increased the number of his serjeants; on the contrary, it is conceived that this Chief Serjeant, or his deputy, continued the usual attendance in Parliament. This idea is corroborated by finding, that after the courts of law and equity were established, and Judges had been appointed and assigned for each court, who thereby acquired much of the authority formerly exercised by the King in the Curia Regis, the same Chief Serjeant became ministerial in his duties to those Judges, and he and his descendants hereditarily, for upwards of four centuries, exercised the office of Chief or King's Serjeant of Ireland. This can be collected from the Rolls of the Courts, where much will be found as to the nature of this ancient officer's services.

Chart.
Roll, T. L.
1 John.

Close
Roll,
17 John.

Chartul.
Thomas
Court,
Dub.

The original grant of the Chief Serjeantcy was made to *Henry Tyrrell* and his heirs for ever, by Prince John, while Lord of Ireland, in the third year of the reign of his brother King Richard the First; and on ascending the throne after his brother's death, King John confirmed this grant by a new charter, dated the 4th of September, in the year 1199. By writ also directed to the Justiciary of Ireland, in the 17th year of his reign, the same King ordered that this Henry should enjoy the *liberties of his Serjeantcy*, according to the tenor of the charter thereof which he had already granted him. This Henry Tyrrell, after assigning ground for a church and cemetery to be erected in Dublin, dedicated to Saint James the Apostle, and endowing Thomas Court Abbey with the tithes and alms of his estates, and with the tithes of his fishery, mill, &c. to find a light for the new church, died in the reign of King Henry the Third; and his estates, with the office of Serjeant, passed by his heiress into the family of *Cruise of the Naul*. Few families are of more respectable descent than this of Cruise. So early as the reign of Henry the Second, they erected a castle over the river

which runs through the glen of the Naul, on the borders of Dublin and Meath; and as they resided in this castle from that time to the reign of Charles the Second, being a period of five hundred years, they were generally known by the name of "the Cruises of the Naul." That castle (which even now in its ruins attests the former consequence of its proprietors), with the adjacent estates, were in possession of "Stephen de Crues," during the reigns of King Richard the First and King John; and the same Stephen having given fifteen marks to the King, the Justiciary and Barons were ordered to enquire into the extent &c. of all the said Stephen's possessions whereof he had been disseised.

Black
Book
Archdio.
Dub.
Roll, T. L.
1 John.

Of him descended Hugh de Crues, who marrying the heir-ess of Henry Tyrrell, as just mentioned, acquired the office of Serjeant, with the lands attached to the same, in the reign of Henry the Third. This Hugh petitioned King Edward the First about the year 1277, and prayed some special exemptions, as he had discharged this office of Serjeant, the inheritance of his wife, for twenty years and more.

Original
Petition,
T. L.

His grandson, Nicholas de Cruys, on the 22nd of August 1321, had licence from the King to enfeoff his son Robert de Cruys and his heirs in the Serjeanty, which was held of the Crown in capite; and afterwards Edward the Third confirmed in fee to this Robert the carucate of land in Mulloghane (which seems to have been the feudal *fee* allotted for support of the office) with the whole Serjeanty, as fully as the same had been granted by Lord John to Henry Tyrrell.

Chief
Rememb.
Roll, Dub.
15, 16 E. 2.

Patent
Roll, T. L.
11 E. 3.

Robert's son and heir was Simon de Cruys, whose jurisdiction as Serjeant in the counties of Louth, Meath, Kilkenny, and Waterford, is recognized by King's writ.

Chief
Rememb.
Roll, Dub.
48, 49 E. 3.

From him descended Thomas Cruys of the Naul, who left two daughters coheirresses, viz. Johanna and Matilda. This Matilda left a son and heir, James Cruise, who was married to Katherine Plupket, and had a grant of livery in that year from the King of all his inheritance, together with the office of Chief Serjeant. It appears that upon some untrue suggestions, the Crown conferred this office soon after on Walter Golding, in consequence of which, Walter, son and heir of

Chief
Rememb.
Roll, Dub.
16, 19 E. 4.

Chief
Rememb.
Inq. Dub.
7 J. 1.

the above James Cruise, proceeded for its recovery before the Lord Deputy and Council of Ireland, who, after the production and examination of "divers and several auncient" and autentick writings, deeds, liveries, and inquisicions," and after allowing a long time to the Counsel for the Crown to shew any title in the King when making the grant to Golding, decreed and adjudged on the 13th November, in the 5th year of King Edw. VI. that the said Walter Cruise's father, James Cruise, and all *his ancestors, under the grant of Prince John, were lineally seised and possessed* of the said office, and that the said Walter should be immediately restored to the possession of the same, with all commodities and profits thereto belonging; and further, that he and his heirs should have and enjoy the same according to the said grant. It is observable, that the office having been in the hands of the King from the time of Henry the Seventh, four persons were successively appointed Serjeants by the Crown during that time; yet neither this adverse possession, nor "nonusor or mysusor," though pleaded for the King, was held to be valid against Walter Cruise, the lineal heir of the first grantee.

Christopher was son and heir of the above Walter Cruise, and by inquisition held before the King's Feodary in the year 1610, it was found that the said Christopher was seised of the manors of the Naul, Grallagh, and Cruisetown, in the counties of Dublin and Meath; and that he was also seised in his demesne, as of fee, "of the office of Chief Serjeant of the" county of Dublin, which office was granted to his ancestors by the most serene Prince John formerly King of England, to be held of him and his successors by military "service;" that he died on the 9th of April 1610, and was succeeded by his grandson and heir Christopher Cruise of the Naul.

The estates of the Naul, Cruisetown, &c. remained in the possession of this Christopher Cruise until the reign of King Charles the Second, as appears by the Down Survey in Dublin Castle; but after that period nothing has been found respecting this office, perhaps owing to the extraordinary

events which followed the Revolution, and which drove the more ancient and respectable families of Ireland into comparative obscurity.

CONCLUSION.

MISCELLANEOUS NOTE.—Many curious though less eminent tenures will be found in the Public Records:—thus the lands of Faithlegge, &c. in the county of Waterford were granted in the year 1172 by King Henry the Second to “*Ailwardo Juveni*,” as King’s *Merchant* (an officer then well known), and those lands remained in possession of the Ailward family until the year 1690. The family of *Wise* held their original estates by the tenure of *finding an armed man for defence of the City of Waterford*. *Richard le Latimer* (of the noble family of Latimer in England) held the lands of Killinglas by the service of *stone cutting to be done in the County of Dublin*. The Lords of *Howth* held the manor of *Kilbarroc* on the Strand by the tenure of rendering a *pair of furred gloves to the King*, being the rent reserved and paid by the Barons de Tuite, under whom it was derived. For the castle and Town of *Dalkey*, the family of *Talbot* rendered yearly to the King one goshawk, &c.

Chief Rememb.
Roll, Dub.
38 Eliz.

Chief Rememb.
Roll, Dub.
4 R. 2.

Charter Roll, T. L.
9 John.

Ch. Rem.
Roll, Dub.
42, 43 E. 3.

As to the more usual Military service reserved in the early grants, and which was to be rendered *when scutage occurred*; a composition is mentioned in the Rolls to have been made about the year 1374, and the Crown appears afterwards to have continually accepted a sum of money in lieu of such service: this however was strictly enforced, and particularly on occasions of public danger, when with the assent of the Lords Spiritual and Temporal, a commission was generally issued by the King to the Treasurer and Barons of his Exchequer, proclaiming a general hosting, and ordering them to cause all holding in capite by military service when Scutage occurs, to answer and pay the services which they owed to the Crown. There is an instance of this so late as the year 1532, when King Henry notifies that for certain arduous causes, with the assent of his Lieutenant and the Lords Spiritual and Temporal and Council, he had

Chief Re-
memb.
Roll, Dub.
23 H. 8.

determined to *unfurl and display his banner* at the hill of Owinstown, in the county of Dublin, and therefore orders his Treasurer and Barons to issue summonses and distringases against all those absent who were bound to render Scutage on such an occasion. Accordingly process issued from the Exchequer against the following persons, not only of the Laity, but also of the Clergy, who were bound to appear for their Baronies or Lay fees.

The Archbishop of Dublin .	for	Coyllaghe Barony.
The Prior of Holmpatrick .	...	Hacketstown Manor.
The Archbishop of Armagh .	...	Iniskeen.
The Prior of Saint John .	...	St. John's Rath.
The Viscount of Gormanstown .	...	Ballymadon.
The Earl of Ossory . . .	...	Turvey.
The Lord of Howth . . .	...	Howth and Tartayne.
The Viscount of Gormanstown & John Lord of Trimbleston	}	Athboy Barony.
James Baron of Slane . . .	{	Slane, Culmullen, and Du- leek Baronies.
Richard Baron of Delvin .	...	Delvin.
John Plunket Lord of Killeen	{	Killallon, Tippermessan, Tullaghanogue, Kilbixy, &c.
James Butler Knight . . .	...	Dunboyne.
Christopher Barnewall and John Burnell	}	Castleknock.
Thomas Talbot	{	Malahide and Garriston Manors.
Robert Barnewall . . . .	...	Drimnagh, &c.
Walter Cruise . . . . .	...	Naul and Grallagh.
James Verdon . . . . .	...	Stanton.
Walter Delahyde, Knight .	...	Moyclare.
Peter Leynce . . . . .	...	Croboy.
Robert Rochford . . . . .	...	Kilbride.
Martin Blake . . . . .	...	Wardton
Christopher Plunket, Knight	...	Kilskyr.
&c. &c. &c.		

But invariably the composition for this service when Scutage occurs, as well as payment for the other services, seems to have been rigorously enforced by the Crown, and indeed also to have been often resisted with much legal ingenuity. Thus, when Christopher Plunket was distrained to do *homage and fealty* to the Crown for his estate, he pleads that he holds those estates as was alleged of the Crown; that he had entered into the same in the manner alleged, and that he was prepared to do *homage* to King Philip and Queen Mary *within the kingdom of Ireland*, if they be present there; but *inasmuch as they were not within that kingdom*, he seeks the judgment of the Court, &c. On the death of John son of Philip Wise, *William Wise* succeeding to the estates was sued in the Exchequer for the *relief* which was due to the Crown out of that property; but he pleaded that he was not bound to render any relief, inasmuch as those lands were held by the service of finding an armed man for defence of the City of Waterford, and that such service being a *corporate service*, was not liable to the payment of reliefs, &c.; and upon this plea the Court took time to be advised. In the 42nd of Edw. III. Reginald Talbot was sued in the same Court for delivering into the Exchequer as the rent of his estate one goshawk, which, on inspection and examination there, proved *unsound, unfit*, and of *no value*; and inasmuch as the delivery of same was a *fraud on the Court* and a *grievous damage to the King*, the said Reginald was fined.

Chief
Rememb.
Roll, Dub.
2, 3 P. & M.

Chief
Rememb.
Roll, Dub.
4 R. 2.

Chief
Rememb.
Roll, Dub.
42, 43 E. 3.

So completely interwoven were those tenures and services with all the institutions of the country, and, from the baron to the villein or *nativus*, so universally did they affect all classes, that on an inspection of the Court Rolls it would appear, the greater part of the business not only of the Exchequer, but of the Law Courts, grew out of those feudal obligations. Hence, as might be expected, before the commencement of the sixteenth century the larger share of legal learning consisted in a knowledge of such ancient tenures and services; and in concluding the present chapter the following document is introduced as not only illustrative of the studies and mode of education of the members of the Bar,

but also in some measure of the habits and customs prevailing among the aristocracy and gentry of the pale in the reign of Edward the Fourth, or about three hundred and sixty years since. It should be observed, that this document purports to be the evidence respecting Sir John Bermingham and Nicholas Travers, which the Attorney General personally obtained at Platten from Sir William Darcy.

Chief
Rememb.
Roll, Dub.
9, 10 H. 8.

“ Memorandum, that I Thomas Netterville, the Kyng’s
“ Attorne, was with Sir Wyllm Darcy of Plattene, Knyght,
“ att Plattene the Monday next before the Feste of the Nati-
“ vitie of our Lorde Jhu Crist anno 9^o Henry 8th 1517,
“ and ther amonge othyr cowynnts enquired of hym whethir
“ he knew John Bermyngham of Baldungan and Nicholas
“ Tryvers of Corkelaghe, ore not, and what age or stature
“ the said Nicholas was of; the which Sir Wyllim shewid
“ me, that he and his cosyn Sir Thomas Kent *beyng lurn-*
“ *ing their tenuors* (learning their tenures) and *Natura Bre-*
“ *vium* with Mr. John Stret att Divelyng, was tabelyd at
“ Hugh Talbots, the said Hugh then dwellyng wher as John
“ Dyllon now dwellyth, and that Ffyllip Bermyngham, then
“ Chief Justice of the King’s Bench, att that tyme dwellyd
“ ther as Ann White dwellith now, having one *John Harper*
“ in his service, *unto the which John Harper the said Sir*
“ *Wyllm and Sir Thomas with other ther companyons on*
“ *holydays resorted to lurne to harpe and to daunce att the*
“ *said Justices place*, where was then the said John Bermyn-
“ ham. And the said Sir Wyllm and Sir Thomas soe beyng
“ in Divelyng was *send for to the marriage of the said Nicho-*
“ *las and of Luttrellis doghter to Luttrelliston*, where they
“ accompanied with divers of Dublin went, att the which tyme
“ the said Nicholas was as tall a man as ever he was, *and the*
“ *best and strongest archere that was att that mariage, and*
“ *at the leaste to the said Sir Wyllms remembrans ther was*
“ *40 good bowes there*; and after the said Sir Wyllm is
“ father fell secke and send for hym home, but here he raght
“ (ere he rode) home his father died the Neuweris day next
“ before the deth of King Edward the 4th that died the
“ Estir then next ensuing. And the May followyng, the same

“ Sir Willym went to Londyn, the said John Bermyngham
“ and his wiffe and the said Nicholas and his wyff being alyve
“ at his departinge.”

The above Sir William Darcy was descended in the male line from the Lords Darcy of England, whose ancient peerage is said to be now extinct or in abeyance. This appears from several entries on the Public Rolls. His family resided at Platten, near Drogheda, (where the mansion may still be seen;) from the time of Edward the Second to the end of the seventeenth century, when having loyally though unfortunately adhered to James the Second, Platten and all other their estates were swept away in the general confiscations which followed the Revolution.

CHAPTER V.

ORIGIN OF FEUDAL BARONIES IN IRELAND. BARONIES
BY TENURE. WRITS OF PARLIAMENTARY SUMMONS.
CHARTERS OF FEUDAL SEIGNIORIES. SUBINFEUDA-
TIONS.

IT has been stated in a preceding chapter, that King Henry the Second conferred estates and dignities on several of the nobles who accompanied him in his expedition into Ireland. Such grants, as might be reasonably concluded, were made according to the form and practice prevailing in England; and from records still existing we find the creations of dignities at that period in Ireland corresponded in every respect with what has been written by Selden, Dugdale, Chancellor West, and those other learned writers who have treated of the origin of the English Feudal Peerage.

By referring to the above authors, as also to the work of the late Mr. Cruise, and the various reports made by the Lords Committees on this subject, the reader will obtain ample information as to the history of dignities, and it will therefore be here sufficient to insert a few general principles for such as may not have an opportunity of consulting those authorities.

It seems to be now admitted that from the reign of William the Conqueror to the middle of the thirteenth century at least, the dignity of Baron in England was annexed to territorial possessions derived from the Crown, for which the grantee was bound to render homage, fealty, and military or honorary services. To these possessions there was annexed a right of holding courts, or the civil and criminal jurisdiction as it has been called, which right sometimes passed with

the seigniori as an incident without being expressly named ; but more generally was specially granted by the words, "justitiam," "curiam," or "socha," and "sacha, infangthef and outfangthef," &c. In such courts justice was administered by the Baron to his tenants and vassals, or those under him. Besides attending the King in his wars with the number of knights reserved by his tenure to the Crown, the Baron, as its vassal, was bound to attend the King's Court, or "*Curia Regis*." This court, which was at first held at stated periods in each year, was afterwards extended to the *Magnum Concilium*, or *Commune Concilium*, to which the King summoned his Barons, for their *advice* and *consent*, at such times and on such occasions as his exigencies required. When *extra-feudal* services were agreed on by the Barons in this court, the consent of their tenants or vassals was also sought by the Lords of such seigniories in the respective Courts Baron ; and in the possession of one of those seigniories as a *Feodum Nobile*, with its incident service of attending the *Curia Regis* or *Commune Concilium*, originated the dignity of the Feudal Peerage.

Charter of Meath, p. 144, and subsequent Charters.

For so far the origin of those dignities in England and Ireland seems perfectly similar ; but in or about the forty-ninth year of Henry the Third an alteration was effected in the rights of the English Baronage, by which it was established that no person should attend Parliament, or the *Commune Concilium*, without express writs from the King, and such writ, with a sitting in consequence, has since been held to have vested in the person so summoned, and his heirs lineally, an hereditary barony. This alteration however was not extended to Ireland ; and as it caused a material difference between the rights of the Baronage in the two countries, we shall proceed to notice those differences under the heads of "Baronies by Tenure," and "Baronies by Writ."

BARONIES BY TENURE.

That remarkable alteration just mentioned was not extended to Ireland, and the dignity of Baron there still continued to be annexed or incident to territorial possessions, as it had been from the reign of Henry the Second. Causes may easily be assigned for this. In the first place, it is clear that the alteration was made in England by the King's authority, as a check on the insurrectionary spirit which the Barons had displayed towards himself and his father; and this was the opinion of Chancellor West, in support of which he cites the following words from the manuscript mentioned by Camden. "Ille enim (Rex scilicet Henricus III.) POST MAGNAS PERSECUTIONES ET ENORMES VEXATIONES INTER IPSUM Regem, Simonem de Monteforti et alios Barones, motas et sedatas, statuit et ordinavit quod omnes illi Comites et Barones regni Anglie, &c. Now viewing the measure in this light, not as one which in policy the security of the Crown may have required in England, yet in Ireland the introduction of a similar measure at that time would have been wholly unwarranted. The following reference to two of King John's letters, written while the English Barons were in arms against his authority; and in them we find the King thanking the Barons of Ireland for their fidelity and service to him, and seeking their advice in some of his most arduous affairs at that period. Immediately after the King's death, his son King Henry repeated those thanks to the Earls, Barons, and all his subjects in that country; and by a writ issued to those nobles, &c. he made due attestations of their past fidelity to his father, which he calls "*fidelitatis vestre tam preclaræ, tam insignis.*" Thus we have satisfactory proof that the Irish nobility took no part in the commotions raised by the English Barons against John, and as to the civil war waged by the same Barons against King Henry the Third, so far were the Irish Magnates from making common cause against the King, that we find the most unaccountable and disastrous contentions raged at that period amongst the Anglo-Norman nobility of Ireland. This civil war, whose afflictive details are given by

Chanc.
Roll, 1. 1.
11 John

Patent
Roll, T. 1.
1 H. 3.

historians, raged through the whole of the English districts, and produced such effects, that King Henry's first care, after overcoming De Montfort and the other Barons in England, was to send over the Archbishop of Dublin, the Bishop of Meath, Lords William de Burgo and Maurice Fitz Maurice Fitz Gerald, as commissioners into Ireland, with special authority to *appease the dissensions existing between the Nobles and Magnates of that land*. The commission for this purpose is issued in the forty-ninth year of that King's reign, the very year, it should be noticed, when the alteration was made in England.

Close
Roll, T. L.
49 H. 3.

If therefore, as has been reasonably supposed, King Henry's object was the punishment and suppression of those Peers who gave such disturbance to the Crown, it is clear that the change so effected was wholly uncalled for by the conduct of the Baronage of Ireland. But the circumstances of the country rendered the introduction of any new power in the King of *selecting or excluding* particular members of the Peerage wholly impolitic, if not impracticable, amongst the Barons of that country. For the purposes of legislation or of military services, the number of those peers was already sufficiently limited, and to lessen that number by exclusion or selection at a time when legislative dignity seems to have been highly valued, would have only created disaffection, and thrown powerful auxiliaries into the ranks of the native Irish chieftains, who already, notwithstanding the courteous style of King Henry's writs when seeking their aid, were sufficiently anxious to recover their ancient dominions. On the contrary, to prevent such abandonment of the English interests, and to preserve the fealty of a bold and warlike nobility so far removed from the immediate reach of the Crown's authority, we find that King and his successors from prudence conceding points to those Barons which more nearly touched the prerogative, and which might have been justly and legally enforced without divesting them, as in this instance, of their birthright.

Whichever of the above reasons may have prevailed, it is at all events certain that this change in the rights of the Feudal Peerage was never introduced into Ireland; and it may be

seen that all those who are mentioned or addressed as Barons there before the 49th of Henry the Third, retained their dignities after that period. In the succeeding reigns we find the same Barons receiving writs of summons, military and parliamentary, and in those and other documents we find *counsel* and *aid* frequently mentioned as duties which they owed to the Crown, and to the discharge of which they are enjoined by the words "in fide et homagio" as Feudal Peers, or "in fide et dilectione," or "in fide et ligeancia," when summoned jointly with those who were ennobled by *patent*. These Feudal obligations were strictly enforced by the Crown; and however valid the cause of absence from Parliaments, the Barons were forced to seek a remission of the penalties imposed as a "work of charity:" and we have instances where the Crown has seized the possessions of one of those Feudal Lords, because by reason of absence out of the kingdom the King was deprived of the "*consilium et auxilium*," which were due for such possessions.

In this manner the dignity of Baron, with voice and seat in Parliaments and Councils, continued to be enjoyed in Ireland, as incident to territorial possessions, until towards the close of the fourteenth century, when the following circumstances occurred:—

Unpubl.
Statute,
2 E. 2.

It appears that the hostile policy which was pursued against the natives of England by the Normans, and which can be so easily traced in their early laws and establishments, was in some measure imitated by the settlers under Henry the Second in Ireland. This particularly shewed itself in a system of exclusion and proscription which marks the more ancient statutes. Strongly attached to their own manners and forms of government, the more powerful native Princes whose territories lay distant from the seat of Government, were for a considerable time indifferent to those regulations; and while they received *scarlet robes* from King John, and were regularly addressed by their lawful titles of *Kings*, *Princes* and *Chieftains*, they obeyed the writs of military summons which Henry the Third, Edward the First and Edward the Second addressed to them as such, and zealously attended with their subjects and septs in the foreign wars of

those monarchs. Even at a much later period we find John Mey, who was appointed by the Crown Archbishop of Armagh, duly received as Primate of Ireland and Archbishop of that province, on rendering to O'Neill Prince of Ulster, who still ruled in that country, *six yards of good cloth for his, O'Neill's, investiture, and three yards of like cloth for his wife's tunic*: and for such recognitions of his royal authority O'Neill bound *himself, his brethren, kindred and subjects*, that he would yield *all assistance* and shew *all favour* to the Lord Primate and *to his Church, his officers, ministers and clerks*, as well secular as regular; that he would preserve all the *liberties of the Church, authorize payment of the Primate's rents, would impose no slavery on the Archbishop's clerks, tenants, &c.* While thus the more powerful Princes in the remote parts of the kingdom were satisfied with such acknowledgments of their authority, those chieftains nearer to the seat of English government, whose possessions and resources were from the time of Henry the Second considerably diminished or destroyed, seemed content with the payment of pensions, by which means the aid of themselves and their kindred was secured to the Crown; and those pensions we find by the Rolls were paid for some centuries. Mc Morrogh, or Kavanagh, head of the Leinster family, received his pension down to a late period as *black rent*; and while receiving this, he is often styled in the records *Protector of the King's roads, Chief or Captain of the Irish of Leinster, &c.* Still those invidious laws were felt severely by the great body of the natives, as well residing within the English districts, where they formed a large part of the population, as within the adjoining counties, to which occasionally resorting, they fully experienced the injustice of such regulations. As one instance of this, we shall just cite a record of the year 1278, whereby it appears that Robert de la Roch and Adam le Waleys were indicted for *perpetrating a certain capital offence* on the body of Margery O'Rorke; but on that occasion it being found that the *aforesaid Margery was an Irishwoman*, ("quod prædicta Margeria est Hibernica,") the said Robert and Adam were acquitted.

Original
Registry,
Armagh.

Chief Re-
memb.
Roll, Dub.
6, 7 E. 1.

In this and in many other ways the great body of the

Bullar.
Roman.
anno 11
E. 2.

Enrol-
ment of
Pope
Adrian's
Bull, T.L.

natives within and adjoining the English counties suffered peculiarly while refused the benefits of the English laws ; and such vicious policy of course gave additional means of excitement to many chieftains who were dispossessed of their patrimony : hence from the reign of Edward the First, we find a continued series of petty international contentions. It is fair, however, to confess, that the natives so situated from time to time entreated the Crown to apply a remedy to those evils, and even in one instance proposed to pay 8000 marks for the general extension of English laws. Finding this unavailing, they afterwards solemnly appealed to the Pope, whose predecessor had conferred the island on King Henry the Second by virtue of that authority which all European sovereigns and states then considered to be vested in the Court of Rome. In this application O'Neill, Prince of Ulster, at length joining in the general desire of his countrymen, became a party ; and convinced from the representations then made that the Irish had serious causes of complaint, and that the scandalous recital with which Pope Adrian prefaced his Bull to King Henry was not the only injury done to that people, Pope John also interceded on their behalf with Edward the Second ; but the Bruces' invasion, in which many of the natives unfortunately assisted, had just occurred, and the loyalty and gallantry exhibited on that occasion by the nobility in repelling the invader and preserving English power in Ireland, combined to render useless the Pontiff's intercession. Local hostilities then increased, and daily adding to the general disturbances of the country, inflamed the animosity of the natives, who seemed gradually inclining to a more general co-operation. A clause in the Statute of 2nd Edw. II. excluded the Irish clergy, secular and regular, from benefices or residence in monastic establishments within the English districts. This clause was repealed in the following year, but being inconsiderately revived in the reign of Edward the Third, a native prelate, Ralph Kelly, Archbishop of Cashell, (so unpopular or so enfeebled had English power become,) was able to stop the collection of the subsidy just imposed in Parliament, and found some of the largest and most fruitful counties in the South fully obedient to his

prohibition. The King in consequence, on hearing of the *great dissensions and discords between the English and Irish*, as he says, which had commenced on the revival of this law, ordered its repeal. This circumstance, which has been misunderstood by historians, will give some idea of the growing power of the natives, even within the bounds of English government; but there are still stronger proofs of the decline of the King's authority in the country.

Original
Letters,
T. L.

Those consequences had been long foreseen, and we find the Kings of England at an early period endeavouring to obviate them. So soon as the reign of John, there appear charters of *English laws and English liberties* to such of the natives as thought it necessary to obtain them; and the same King, when in Ireland in 1210, made efforts to establish one system of laws between all the inhabitants of the country. A similar policy was aimed at by his immediate successors Henry and Edward; but their foreign enterprizes and constant applications to the Magnates for aids in men and money left them unable to carry into execution such just intentions. Edward the Second was often also an applicant for assistance from those nobles, and though sensible of the growing evils, became ultimately incapable of changing the system which had been so long established. However one positive good arose from this King's exertions. Already had the corporate cities and boroughs, for their own security and for the promotion of commerce, extended a community of privileges to the Irish natives settling within their franchises. The Commons of counties through similar motives were inclined also to a similar policy; but the Magnates, anticipating a diminution of their power, had been opposed to all change: hence King Edward found it necessary to strengthen the interests of the third estate of Parliament, and during his reign the Commons enjoyed their proper position in the legislature. This can be traced in many instances through the records; but in none does it appear more evident than in the various statutes passed during that reign, scarcely one of which was passed without enactments against the oppression of the "Graunt Seigneurs," or "touz de graunt lynage." In one statute to which those nobles were of necessity a

Patent
Roll, T. L.
17 John.

Chief Re-
memb.
Roll, Dub.
... E. 1.

Unpub-
lished
Statute.
Ch. Rem.
Off. Dub.
2 E. 2.
3 E. 2.
13 E. 2.
17 E. 2.
19 E. 2.

party, their mode of obtaining *great ransoms* by *way of extortion* is plainly set forth; and in the next year another Act attributes the unprecedented *dearness of all commodities*, in no very measured language, to their proceedings. In a few years after, we find a statute creating the penalty of forfeiture on those who much aggrieved the common people, &c. and wasted and destroyed their lands by sending *men, horses, dogs, and birds* to sojourn in their houses; as also on those of lineage, who with large companies of horsemen, &c. going from town to town, ordered "*curtoisies*" of money, corn, &c. and threatened loss of life and member to those not yielding to such impositions: neither were they forgotten who with a great company of men came to houses *without being invited*, and there expended and wasted the goods of the people, &c.: all which statutes the Baronage were obliged on more than one occasion to re-enact and confirm. Edward the Third, in a few years after ascending the throne, finding that neither the commands nor *entreaties* of his predecessors could induce the Baronage to pass an Act for the general abolition of such distinctions, availed himself of the prerogative, and issued an ordinance for the purpose. But even this King, at a period when Royal ordinances had considerable authority as well in England as in Ireland, was obliged, as his predecessors had done before, to make some slight concession to the Magnates: the Order was therefore couched in the following words—"Item quod

Chief Re-
memb.
Roll. Dub.
5, 6 E. 3.

"*una et eadem lex fiat tam Hibernicis quam Anglicis, excepta servitute Betagiorum penes Dominos suos eodem modo quo usitatum est in Anglia de Villanis.*" This mandate, however, like many others, seems to have had no permanent effect; and King Edward, so much absorbed in his foreign wars, and so often seeking the military assistance of the nobles with men, horses, and arms, felt necessitated, however reluctantly, to withdraw his attention from the internal government of Ireland. The English interest, already yielding, now rapidly declined; the natives re-assumed those lands which had been long considered as English districts, and we have instances of seigniories within some miles of the

metropolis that had been subject to the King's power from the time of Henry the Second, now claiming remission of their accustomed rents and services on the ground of being wasted and occupied by the Irish enemy : added to this, many of the principal families residing in the South and West of the island became so incorporated with the natives as to assume Irish surnames, and throw off all English rule of government ; and the frequent repetition of the words " English rebels " in our legal records at that period, shews that the Crown's authority was not opposed solely by " Irish enemies." But this state of things was further aggravated by the conduct of many of the principal Barons, who, being Peers of England, retired to their estates in that country, and their castles thus left unfortified, and their lands undefended, were re-assumed without much difficulty by the neighbouring septs. Various writs were issued to remedy this evil ; ordinances and statutes against absentees and non-residents were also made, but apparently with little effect. King Edward ordered the rents and issues of such estates to be seized and applied to the munition and defence of the castles, &c. ; and afterwards he acquainted his Peers residing in England, that on his going over to Ireland to *recover* and defend that country, if they did not attend with men and arms, he would regain such estates "*armata potencia*," and then dispose of them as a *new acquirement*, according to his pleasure. This threat was put into execution when the King's son Lionel Duke of Clarence went over with an army for the purpose ; and when we find him, in the King's name, granting a lordship to the Earl of Stafford, who accompanied him "*juris nostri Regii*," as that patent and many others express it. But to such a state was the country reduced, that even under such circumstances the English nobility could not be induced to accompany the Duke in his expedition. As a propitiatory measure however, when convoked at Westminster, they voted the King all their estates in Ireland for two years, "*in auxilium guerræ* ;" and amongst the principal lords having estates in Ireland who were summoned by writ on those occasions, we find the names of the Earls of Oxford and of Athol,

Close Roll, T. L. 36 E. 3. Edward le Despenser, Almaric de St. Amand, Bartholomew Burghersh, William le Zouche, John Cornewail, John Mau-travers, Thomas de Roos, Roger de Clifford, Thomas de Lucy, John de Tibetot, John de Erlee, James de Stafford, William de Morle, William de Ferrers, and of many others equally high amongst the most ancient of the English Barons. However, the unwillingness of those nobles to leave their estates in England and reside in Ireland is a matter of the less wonder when we find at the same period so many instances of Juries returning verdicts, that several of the more powerful Barons resident in the country could not attend Parliament there by reason of the *danger of the roads*, or on account of their being engaged in *defence of their territories*, which they could not leave *without the greatest loss and damage to the King and his people*, and, in some cases, *without the destruction of the country*.

Chief Rememb. Roll, Dub. 9 E. 3. 49, 50 E. 3. 3 R. 2.

It was at this juncture that Edward the Third aimed at such an alteration in the constituency of the Upper House of Parliament as would render the Irish Baronage more compliant with his views. It was the recognized law of that day that the estates even of his subjects recovered by the King from an enemy by force of arms, became vested in the Crown after such new acquirement. King Edward frequently notified by writ that he would enforce his right in Ireland in this respect; and as has been already stated, we have on the Rolls many new grants made of estates which had been so resumed from the natives. It was therefore reasonable to expect that the smaller tenants *in capite*, who composed the principal gentry of the country, in hope either of partaking of the King's acquirements, or of being restored through his assistance to those estates lately recovered and occupied by the natives, would be fully inclined to deserve the Royal favour. With this view King Edward determined on encreasing the number of his friends amongst the Baronage in the manner once effected by his father, but with more attention to the forms and appearance of legality. By Magna Charta it was agreed that the King, when convoking the "Commune Concilium Regni," should summon *singly* by his letters the Arch-

bishops, Bishops, Abbots, Earls, and “*Majores Barones*,” and should summon *in general* by his *Sheriffs* and *Bailiffs* *all others who held of the Crown in capite*, &c. Such was the mode of assembling parliaments in the reign of John; and whatever changes had subsequently taken place in one branch of the legislature, the King in a great measure followed the terms of this charter, in the hope of overcoming by numbers that opposition which the Crown experienced from the Lords. Accordingly, in the 46th year of his reign a Parliament was convoked at Dublin, to ordain for the *salvation and defence of Ireland*: and to this Parliament were summoned by special writs the Spiritual Peers, as also the Earls of Kildare and of Ormonde, to the latter of whom, as a zealous supporter of the Crown, it is particularly made known that his absence under any circumstances will not be excused. These are the only Peers summoned *singly*, and next follow writs to the officers of Counties, &c. for the usual elections; the Commons and the Sheriffs of Counties, and Seneschals of Liberties, are at the same time commanded to *forewarn* the persons whose names are specified in the writs that they “in fide et ligeancia,” all excuse ceasing, and under penalty of an hundred marks (the amount of fine imposed on absent Barons) should be personally present at the day and place appointed for the Parliament. Now it is observable, that in the list of those who are ordered to be forewarned or summoned by the Sheriffs and Seneschal, are all the ancient Parliamentary Barons, whose rights were unquestioned from the time of Henry the Second, and who always after the reign of Edward the Third continued to be summoned as Parliamentary Barons by *special* writs, and as such had been before *specially* convoked by the same King. Whether this mode of addressing the undoubted Peers was intended as a mark of the King’s displeasure, it is difficult now to determine; but their names are to be found in this writ, with the names of about thrice the number of persons who, though holding in capite, were never considered to rank amongst the Peerage, and who seem to have been only summoned on this one occasion. Judging from other writs of summons however, and from the number of persons

Writ of
Summons,
46 E. 3.
See Chap.
XI.

Spencer's
View of
the State
of Ireland.

who were now for the first time ordered to be summoned, it is clear that the King by the present proceeding secured a majority in the Lords; and when we perceive him ordering the return of twenty-four "juratos" from the City of Dublin, it is equally clear he was not inattentive to his interests with the Commons. That he had a majority in that Parliament, there are many reasons for thinking; and a well-known writer of the sixteenth century mentions it as a tradition or hearsay in his day, that King Edward the Third being *bearded and crossed by the Lords of the Clergy*, who being in Parliament *too many and too strong for him*, so that he could not "for their forwardness, order and reform things as he desired," directed his writs to "certain gentlemen of the best ability" and trust, *entitling them Barons* in the next Parliament, "by which means he had so many Barons in his Parliament" as were able to weigh down the Clergy and their friends; "the which Barons, they say, were not afterwarde Lordes, but only Banrets, as sundry of them doe yet retayne the name."

Writ of
Summons,
48 E. 3.
See Chap.
XI.

But this innovation must have given general dissatisfaction, not only to the ancient Peers, who still had extensive influence, and who conceived themselves to be the sole stay of English authority in the country, but also to the tenants in capite newly summoned, who now became liable to almost annual parliamentary attendance, or to the payment of those *exorbitant* fines (as they are sometimes called) imposed for non-attendance. In consequence of such dissatisfaction, when the next Parliament was called there were no clauses of *præmunire* to summon the tenants in capite inserted in the writs to Sheriffs, and all the ancient Barons were summoned as usual by *special writs*. On the whole, the Temporal Lords summoned now to the Upper House were less than one-half the number called to the last Parliament. Still it appears, either through mistake or design, some new persons were summoned on this occasion, and the circumstances connected with some of those are deserving of notice.

Ch. Rem.
Roll, Dub.
49, 50 E. 3.

The name of "Walter Lenfaunt" will be seen as one of the *new* persons summoned in the above writ; and on his

being afterwards summoned to the next Parliament at Dublin, and being fined for absence, his petition against that fine caused the usual reference and enquiry, and a solemn decision was pronounced upon the important question of Tenure and Writs. It should be premised here that the manner of proceeding for the reduction or remission of fines imposed on those absenting themselves from Parliament was by petition to the Crown, in which some special cause for such absence was alleged, and those special allegations were transmitted by King's writ to the Treasurer and Barons of the Exchequer, most usually with commands to enquire into the facts and all other the circumstances by the oaths of a Jury composed of persons of the same county, but in no way related by affinity or otherwise with the petitioner, and to return the inquisition or verdict so found, &c. Afterwards the decision of the Crown was given according to the facts found by the inquisition; but even where the causes alleged for absence were found perfectly admissible, the King seems always to shape his order of remission as an act of *grace* or *favour*, so strictly enforced was the duty of Parliamentary attendance. Such were the proceedings adopted at that time towards reducing or discharging fines imposed for absence, as appears by many petitions, King's writs, and inquisitions enrolled on the Chief Remembrancer's rolls; and it was considered necessary to notice them here, lest it might now be thought that such fines were discharged or enforced arbitrarily without the decision of judicial and other proper tribunals. In this manner therefore the above mentioned Walter Lenfaunt proceeded by petition to the Crown, seeking the discharge of a fine imposed on him for being absent from the Parliament held at Dublin, and to which he was summoned as *holding by Barony* ("tanquam tenens per Baroniam"), although he never held by that tenure. This being the point of enquiry, his petition was referred in the accustomed manner, and an inquisition being held thereon at his suit before the King's Justiciary, as the record states, it was found that he never held by Barony: the King therefore, on the 12th of June following, issued his writ to the Treasurer and Barons of his Exchequer,

Close
Roll,
Chan.
Dub.
51 E. 3.

to whom belonged the enforcing and collecting of such fines; and after reciting the facts stated in the petition and inquisition, he ordered the said Walter, as it was found he did not hold by Barony, to be exonerated from this fine; and further his Majesty thereby declared that “NON EST JURIS SEU
“CONSUEUDINIS IN DICTA TERRA NOSTRA HACTENUS
“USITATÆ, QUOD ALIQUI, QUI PER BARONIAM NON
“TENŪNT AD PARLIAMENTA NOSTRA SUMMONERI SEU
“OCCASIONE ABSENCIÆ SUÆ AB EISDEM AMERCIARI
“DEBERENT.”

Whether the Peers assisted in bringing the question to issue in this manner, it is difficult now to ascertain; but after the law was thus declared, no further innovation was attempted by the Crown. The Feudal Parliamentary dignities continued as theretofore to be enjoyed solely on the principle of Tenure; and from the increasing power of the natives, and the declining state of English authority in the country, those entitled to such dignities in right of their estates became extremely few, and never after the reign of Edward the Third exceeded twenty-five in number.

Though the law however was thus settled that none but persons holding by Barony were liable to Parliamentary service, yet it does appear that the Crown enforced the attendance of such as had acquired estates out of which that service was of right due, even though the then possessor or his ancestors had never been summoned: this, which establishes the great importance attached to Tenure, appears in the case of Thomas Vernoill or Verneile, as the name is variously written, who is also entered amongst those new persons who were ordered to be summoned by the Seneschal of Meath in the writ of the 46th year. This Thomas, with the word “Militi” attached to his name, was afterwards summoned by *special* writ to the Parliament at Dublin in the 48th year, as he was also to the Parliament at Kilkenny in the 50th year; and from this latter Parliament he absented himself. Being fined for such absence, he petitioned the Crown as “Thomas Verneile, Chevalier,” and shewed that from the wars carried on by the O’Connors and Matthew Fitz Remond Bermyngham,

the King's Irish enemies and rebels, he could not attend that Parliament without the *destruction of the King's poor lieges*; therefore he prays remission of the fine as well for the above reason as for the travail and expence he has been at in the Marches of Carbery resisting the King's enemy, and particularly *because none of his ancestors were ever summoned before this time to any Parliament except amongst the Commons*. This latter allegation as to the Petitioner's ancestors, which is evidently true, was not however considered by the King as a legal cause for absence; and therefore, in issuing his writ to the Exchequer, he merely commanded that the one point, namely, the wars of the Connors and Bermyngham, should be enquired into; and the Jury having found that this Thomas on account of those wars could not attend that Parliament *without destruction of his country*, the fine was discharged, and only on that account. In consequence, as Sir Thomas Vernoill's estates in Meath were of great extent, and sufficient to qualify him on the principle of Tenure, he continued to be summoned afterwards as a Feudal Baron by special writ, notwithstanding that his ancestors, never having so great an estate, had never been summoned amongst the Peers. In every respect, indeed, we find the principle of Tenure strictly adhered to: thus, when Temporal lordships devolved on the Crown in this King's reign, whoever obtained the custody of them was expected to render to the Crown the same military and parliamentary services as had been previously rendered for such seigniories. An example of this occurs in the lordships of Desies and Desmond, which coming to the Crown by the natural incapacity of Earl Nicholas, were granted *in custodiam* to Gerald Fitz Maurice, that Earl's younger brother; and the same Gerald during his brother's life was summoned to Parliament by special writ in right of those lordships, and rendered in all other respects the services due to the Crown for the same. Other instances of this occur at a much later period, and King James the First's order as to the Barony of Barrymore, and Charles the First's order as to the Barony of Slane, are evidences with the above case of Desies and Desmond, that during the civil or natural

Chief Re-
memb.
Roll,
Dub. 49,
50 E. 3.

Writs of
Summons,
1 R. 2.
4 R. 2.
5 R. 2.
&c.

Chief Re-
memb.
Roll,
Dublin,
33 E. 3.

incapacity of Feudal Peers, the Crown enforced the services due out of their estates, and exercised a power of selecting for the discharge of parliamentary services the nearest heir male on whom the estates (or the guardianship of them) happened to devolve through such incapacity. This was, however, but a continuance of one of the oldest rights of the Crown.

But to return to the reign of which we now treat, we find in a similar manner on the death of Archbishops, Bishops, Priors and Abbots who enjoyed parliamentary peerages in right of their ecclesiastical possessions, the King granted a *custodiam* of such possessions until the vacancy was filled up, and the person enjoying this *custodiam* pro tempore was liable to his writ of parliamentary summons, and was regularly summoned amongst the Spiritual lords, as will appear by the writs of the 48th of Edward the Third, and of the 1st, 4th, and 5th of Richard the Second.

About this period there occurs a legal record which not only confirms (if confirmation were required) what is above advanced, but throws some curious light on the rights and nature of those Feudal Parliamentary dignities in Ireland. The record alluded to is one which has been noticed by many learned writers, and is generally styled the "*Modus tenendi Parliamentaria;*" being directions or rules for the holding of Parliaments in Ireland, sent from England by King Henry the Second. This document being here introduced as a *legal record*, but of no earlier date than of the 6th year of *Henry the Fifth*, some account of it becomes necessary; and it may be useful at the same time to keep in mind the attempt made by King Edward the Third to invade the rights of the Baronage, in consequence of the opposition which he encountered from the *Lords of the Clergy* and their *friends* in the Upper House. It appears that in the year 1419, while Sir John Talbot of Halomshire (the "*British Achilles*") was Lord Lieutenant of Ireland, Sir Christopher Preston, Baron of Gormanstown, the Earl of Kildare, and Sir John Bellew, were arrested at Slane by the Deputy of Ireland, namely, Richard Talbot Archbishop of

Dublin, and in possession of Sir Christopher Preston was then found a *certain parchment roll*, “quodam rotulo pergameneo.” This parchment roll, containing *divers articles*, commenced in these words:—“Henricus Rex Angliæ, &c. “mittit hanc formam Archiepiscopis, Episcopis, Abbatibus, “Prioribus, Comitibus, Baronibus, Justiciariis, Vicecomitibus, Majoribus, Præpositis, Ministris et omnibus Fidelibus suis terræ Hiberniæ tenendi Parliamentum,” &c. Immediately after the arrest, this roll was produced before the Lord Lieutenant and Council at Trim; and it was there, viz. on the 12th of January, in the 6th year of Henry the Fifth, inspected, and an exemplification or copy was then made of it, to which the Great Seal was affixed.

The exemplification commences in the King's name, with a recital that the roll was found with Sir Christopher Preston on his arrest by the Deputy of Sir John Talbot, Lord Lieutenant of Ireland, and that it was exhibited before him and the Council at Trim on the 9th of January following; and after reciting the whole contents of the roll, the exemplification concludes in the following words:—“Nos autem “tenores articulorum prædictorum de assensu præfati Locum tenentis et Concilii prædicti tenore præsentium “duximus exemplificandum, et has litteras nostras fieri “fecimus patentes. Teste præfato Locum nostrum tenente “apud Trim 12^o die Januarij anno regni nostri sexto. Per “ipsum Locum tenentem et Concilium.” The *original parchment* found with Sir Christopher Preston came afterwards into the possession of Sir William Domville, Attorney General to Charles the Second, who, as we are told, had it from the Deputy Vice-Treasurer of Ireland, to whom it was given by the Master of the Rolls. Through Sir William Domville it came to Anthony Dopping, Lord Bishop of Meath, who was one of the Spiritual Peers of King William's Parliament; and he published a perfect copy of it with a prefatory vindication of its antiquity and authority. From the Bishop of Meath this roll descended to his son Samuel Dopping, who furnished it to his uncle William Molyneux, Esquire, M. P. when writing “The Case of Ireland” in the

Case of
Ireland.

year 1697.* It must be admitted, however, that the antiquity of this original roll, like the "Modus" for England, has been questioned by Selden and other high authorities, who have denied that the Modus of Ireland could be so ancient as the reign of Henry the Second, or that for England so old as the time of William the Conqueror. Under these circumstances, we shall confine our attention to the exemplification notwithstanding the opinion of Sir Edward Coke and others as to the authenticity of the original. During and after the reign of Henry the Fifth, the exemplification of any record under the Great Seal was the most solemn mode of authentication and of approval on the part of the Crown then known to the law in Ireland, and seems to have been only used when *messages* and *petitions* were forwarded to the King in England from the Parliament of Ireland, or when statutes recently passed were about being forwarded for promulgation to the respective officers of ecclesiastical and corporate liberties. Under these circumstances, using the "Modus" only as a record of the reign of Henry the Fifth, it is now of little consequence to determine in what reign the original parchment roll might have been written, or whether it had been really sent into Ireland by Henry the Second. The *exemplification* so made, we find, was in the hands of Mr. Hackwel of Lincoln's Inn, who communicated it to Selden; and neither that learned antiquary, nor any subsequent writer, has ever questioned the authenticity of this exemplification and in-speximus under the Great Seal. It may therefore now be fairly used as a legal document of the 6th year of Henry the Fifth's reign, affording that evidence the Crown made in Council a matter of record, and thereby according to the usual practice approved of certain forms and other matters

Selden's
Titles of
Honour.
Moly-
neux's
"Case of
Ireland,"
p. 22,
Dub. Ed.
1725.

* Through the kindness of his friend George Robert M'Grath, Esq. the Author had an opportunity of searching through the records and papers of Bishop Dopping in the library at Lowtown House; and though he obtained every facility through the politeness of Mrs. Dopping in the course of his enquiry, yet he could not discover the original roll, which Mr. Molyneux says he had before him when writing his "Case of Ireland."

connected with the Parliament of Ireland. In this view, the record will be cited, and for that purpose it is far more valuable than the original roll, which at best could only shew the forms of Parliament in some part of the reign of Henry the Second.

As to the principle of Tenure, or the obligation of the Baronage to attend Parliaments, in the third section of this record, under the head of "Summons of the Laity," we find the following words:—

"Every Earl and Baron and their Peers, viz. such as have lands or rents to the value of one entire earldom, or twenty knights' fees, each computed at twenty pounds, which make four hundred pounds, or to the value of an entire barony, viz. thirteen knights' fees and the third of a knight's fee, which make four hundred marks, ought to be summoned and come to Parliament; and none others of the Laity or Clergy of lesser possessions ought, at their own costs, to appear on account of their tenures, unless the King should summon his Counsellors, or other wise men, for some necessary cause, to whom he usually sends praying them to come to and remain in Parliament at the charges of the King himself."

It is evident from the above, that the feudal parliamentary dignities of Ireland were governed solely by the principle of Tenure, and remained, down to this period, unaffected by any alteration; and that this continued to be recognized by the Crown, and of the Legislature, appears from the record left us by Archbishop Alan, of the Parliament assembled in the reign of Henry the Eighth, wherein he was present, and which record, as to the persons summoned and their qualifications, is nearly a transcript of the above Modus.

"Sessio
Parlia-
menti,"
Black
Book,
Archdio.
Dub.

After this exemplification of the "Modus," the principle of Tenure was so strictly observed, that we find many Barons, who were always summoned to Parliament by *special* writs, and were fined frequently for non-attendance, became completely divested of their privileges in that respect, and were never summoned again to Parliament. This may be attributed to alienations or partitions made of their estates, or to

the encroachments made by the natives on the former possessions of such Barons, which so diminished their property as to leave them far below the standard prescribed by the *Modus*. Amongst such Barons who then ceased to be Peers of Parliament, we can reckon Power, Baron of Donoil, or Donhil; Hussey, or Pheypo, Baron of Scryne; Calf, Baron of Norraghmore; Hussey, Baron of Galtrim; Nangle, Baron of Navan, &c.; several of whom, we can even now ascertain, had originally competent estates for enjoying the dignity of the Peerage, and some of their seigniories are still called "*Baronies*," being one of the names by which, at the present day, the civil or territorial subdivisions of the island are distinguished.

Although the practice of creating Peers of *Parliament* by letters patent of the Crown had long prevailed in England, yet it was not until upwards of fifty years after the above exemplification, that such practice was introduced into Ireland: when, however, this mode of creation was adopted, the King was obliged to grant the person created a seignior, or otherwise vest him with an income sufficient for the support of his dignity; and this circumstance, which appears from the letters patent to be found in another chapter, shews the opinion then entertained by the Crown as to the qualifications requisite for a Parliamentary Baronage in Ireland.

See Chap.
VIII.

But in going through the descents of some of the Feudal Peerages, it was found, that from shortly after the date of the above exemplification down to the reign of Charles the First, comprizing a period of more than two hundred years, various settlements were made by the Feudal Parliamentary Peers of their lordships, manors, castles, &c. and that within that time at least the dignity of the Peerage was invariably enjoyed by those deriving such estates under the settlement, and frequently to the exclusion of the lineal heirs of the settlor or original grantee. Many instances of this will be found in the descent of the Barrymore, Kingsale, Athenry, Ophaley, Slane, Gormanstown, and other feudal baronies; and as it is thereby evident that such dignities, though not specially named, became subject to the operation

of fine and recovery with the estates entailed, we have positive proof that Baronies continued to be enjoyed by Tenure down to the middle of the seventeenth century.

On the Restoration of King Charles the Second however, as all the estates of the nobility and gentry (it was ordered by the King's proclamation) should be allowed to remain in possession of those who enjoyed them on a certain day before his Majesty's happy return, and until such time as Parliament had assembled and provided for the general settlement of estates and interests in Ireland, so the principle of Tenure was waived, of necessity, on this occasion. The first appearance of Feudal Barons sitting in Ireland, therefore, who were not possessed of the estates to which their dignities were incident or appendant, is to be found at this remarkable epoch in British history: the partizans of the late usurping Government were possessed of the principal seigniories in Ireland; but having contributed their assistance towards the King's restoration, the order was issued not to remove them from such estates, however unjustly acquired, until a settlement was effected by Parliament. Accordingly on the 13th March, in the 13th year of his reign, King Charles summoned a Parliament for that and other purposes; and though it was sought generally to introduce test oaths on the occasion, yet there was no attempt to exclude the Feudal Peers who had been deprived of their estates in the late Revolution: on the contrary, we find the King's commission issued in the usual form, empowering his Lords Justices to summon and cause to come to that Parliament *omnes et singulos Dominos Spirituales et Temporales, Milites Comitatum, Communes et Burgenses Civitatum et Burgorum, et alios quoscunque dicti regni nostri ad Parliamentum nostrum ibidem venire consuetos*, "ad dictum Parliamentum nostrum ut predictum est tenendum juxta consuetudinem ibidem hactenus usitatum summonendi et venire faciendi," &c. In consequence, the Feudal Peers were summoned and sat, and particularly the Barons of Athenry, Kingsale, &c. though they did not re-obtain possession of their seigniories until the passing of the "Act of Settlement," and the appointment of the "Court of Claims" in

Carte's
Life of
Duke of
Ormond.

Journals
of Parlia-
ment of
Ireland.
Lords'
Journals
v. 1, p. 231,
310, 381,
&c.

four or five years after. Barony by Tenure then went rapidly into desuetude, and within fifty years of the Restoration we find an ancient Feudal Peer of Ireland who had for ever lost the inheritance to which his dignity was annexed, and who possessed no estate whatever, restored to his title of honour by the Parliament of England.

BARONIES BY WRIT.

As it has been shewn that from the reign of Henry the Second to the middle of the seventeenth century the ancient Parliamentary Peers enjoyed their dignities only in right of Tenure, a few observations must now be added as to "Baronies by Writ," which, though so numerous in England, seem never to have been known in Ireland. The declaration of law made by Edward the Third in the case of Walter Lenzaunt, at once negatives the idea that the Crown could summon its subject to the Upper House as a Baron, unless the person summoned held by Barony, or was bound by his tenure to render such parliamentary service. In the exemplification of the "*Modus*," we find that none *ought to be summoned or come to Parliament*, but those therein described (the Barons by Tenure), and those *Counsellors* or other *wise men* to whom the King *usually sends* praying them to come to and remain in Parliament at the *charges of the King himself*, by whom are meant the Chancellor, Treasurer, and other members of the King's Council, "*qui sunt de Concilio Domini Regis*," as the various writs express it, and who were thus officially summoned. But as to Barons by Writ, they appear by this record to have been then unknown.

There are also other negative proofs of the fact. Of the several persons summoned by Edward the Third to the Parliament held in the 46th year of his reign, whose writs are on record, and who sat on that occasion, we do not find one afterwards obtaining or claiming a right to the dignity of the Peerage in right of such summons and sitting: on the contrary, as they were chiefly resident within the pale, and possessed considerable estates, we can easily afterwards trace

the descent and family of most of the persons then summoned, through the public rolls; and in so doing, we find, notwithstanding such writ and sitting, that those persons and their descendants continued to be commoners. Again, the Baron de Londres, the Baron of Norraghmore, the Baron of Scryne, the Baron of Galtrim, &c. always ranked as Parliamentary Peers from the earliest period; and we have even still remaining several writs of summons addressed to them, and some instances where they were fined for absence; yet after the exemplification was made of the "Modus," when perhaps their estates were found insufficient, not one member of those families, notwithstanding so many writs and sittings, was ever allowed the dignity of the Peerage. There is indeed almost positive proof that in their own opinion they were not entitled to that dignity; for by the statute 27th Hen. VI., which was strictly observed within the pale, all Parliamentary Peers were exonerated from the offices of Sheriffs, &c. Now, in a few years after that Act, the Baron of Scryne was sued by the Crown for not executing that office, he being duly elected thereto by a county, &c.; and instead of pleading his Peerage under the statute 27th Hen. VI. which declares

Chief Re-
memb.
Roll, Dub.
10 E. 4.

Patent
Roll, T. L.
2 E. 4.

all such elections of Peers to be void, the Baron pleaded that he was a resident in the city of Dublin, and that by the charter of Edward therein cited, all citizens residing there were exempted from serving such offices, &c. We also find that when Sir Robert Barnewall, the coheir and representative of two ancient Parliamentary Baronies, by his great influence and services to the State, was thought deserving of promotion to the Peerage, the King was forced to ennoble him by letters patent; and this new creation, we may presume, would be unnecessary if the many writs and sittings of those Barons whom he represented were considered to have already created an hereditary dignity.

But in the case of those Baronies that after the exemplification of the "Modus" still remained as Parliamentary dignities, and whose possessors from that time to the present day have been always considered as Lords of Parliament, we find perhaps a stronger proof that writs of summons with

consequent sittings never created hereditary Parliamentary Peerages in Ireland. It has been before stated with respect to the dignities now alluded to, that under settlements and entails created by the respective Barons, their castles, lands, &c. with the dignity as an incident, descended to the persons deriving under such settlements, and that to the *exclusion of the heirs lineal*. Now this has not been confined to one instance or to one family, as may be ascertained on tracing through records the descent of the Feudal Baronies of Barrymore, Kingsale, Slane, Killeen or Rathregan, Gormanstown, Ophaley, Athenry, &c. : and if a writ or successive writs of summons, with also successive sittings, created in Ireland an Hereditary Peerage, it would then be impossible to account for those dignities so often having been conveyed to and enjoyed by the heir, however distant, taking under such settlements, while the daughters, sisters, or other coheirs of the settler or Baron last seised, who would be entitled according to the law of England, were wholly passed over. Many of those coheirs were intermarried into the first and most leading families of the country : yet from the reign of Henry the Fifth to that of George the Third, there never has been an instance of the dignity of Baron being claimed and allowed under the writs and sittings of those coheirs' ancestors. After the accession of his late Majesty, indeed, there was one claim made and allowed on behalf of an heiress ; but the peculiar circumstances subsequently discovered as to that case, evince how far the rights and origin of the ancient Peers were then forgotten or neglected in Ireland, and shew the caution necessary in coming to decisions without the fullest and most authentic information :—no other claim, however, was afterwards allowed in favour of heirs general.

It appears that in the descent of one of those Baronies, the heirs lineal, or heirs in the *line of representation*, as they were called, have been in five different instances passed over : and if by this one a calculation might be made of the similar instances that occurred in all the other Feudal Peerages, we should find in the result so many dignities created by writ

now are, and have been for the last four centuries, in abeyance and claimable, as would in themselves furnish the strongest presumption that writs of summons, and sittings thereupon, never created an Hereditary Parliamentary Peerage in Ireland.

But this question is not now open to doubt, nor does it depend on the presumption, however strong or convincing, which might naturally arise from what has been before stated: the question has been already mooted on several occasions previous to the reign of George the Third, and in each instance of an adverse claim by heirs female, or in their right, the decision has always been in favour of the heirs male. This subject however, with the various cases decided in the seventeenth century, will be found more fully discussed in a subsequent chapter.

The effects of a writ of summons were so well known in Ireland at the end of the seventeenth century, that at a period when the state of public affairs would not admit of the necessary time for preparing patents in due form, King James the Second, wishing to confer Peerages on Thomas Nugent, second son of the Earl of Westmeath, John Bourke, second son of the Earl of Clanrickard, and Sir Alexander Fitton, addressed his special summons to them, and commanded their presence at the Parliament to be held in Dublin on the 7th of May following, with others his Prelates, Magnates, and Proceres of that kingdom: but knowing that mere summons to Parliament could not in Ireland effect an Hereditary Peerage, and that even in England at that time the law could scarcely be considered as settled on the point, King James added a clause of creation for that purpose in the following words:—"Volumus etiam vos et heredes vestros " masculos de corpore vestro legitime exeuntes Barones Nugent de Riverston in comitatu Westmidie existere." As there is but one other instance of a similar creation, namely, that of Henry Bromflet, who was created Baron de Vessy in England by a clause inserted in the summons which Henry the Sixth directed to him, and as such instruments must now be deemed both interesting and curious, copies of

Chan.
Roll, Dub.
5 J. 2.

Close
Roll, T.L.
27 H. 6.

See Chap-
ter XI.

them will be found in another part of this work. It must be added that those three letters of summons being known to operate as creations, they were duly entered on the Chancery Rolls, while none of the other instruments of summons for that Parliament appear to have been made matter of record.

In fact, an usage has prevailed in Ireland in this respect as in many others; and though it may now be considered as an *usage peculiar* to that country, yet it is really but the observance of that law or custom in favour of heirs male which long prevailed in England, and which was introduced into Ireland with all the other feudal institutions by King Henry the Second.

Having thus pointed out the difference as to *Tenure* and *Writs* which distinguished the dignities of Ireland from those of England, and which was evidently caused by alterations made in England long after her more ancient institutions, laws and customs had been perfectly established in Ireland, we shall now revert to the manner of erecting or creating those feudal dignities.

CHARTERS OF FEUDAL SEIGNIORIES.

It has been already laid down as a principle common to both countries, that the dignity of Baron was annexed to territorial possessions derived from the King; and considering the eminent rank and peculiar privileges which attached to that dignity, it became a matter of much interest to ascertain in what manner those Baronies were erected, or in what terms such extraordinary rights were formerly conferred by the Crown. In this particular the history of the Baronage of England is still deficient, owing, *as it is said*, to the loss or destruction of the original grants made to his officers by King William the Conqueror; and this defect has let in a supposition that such grants contained reservations of Parliamentary service. Whether those charters have all been lost, or whether none of them can now be traced by *inspeximus* or *exemplification* in a country where such numerous

and such extremely ancient documents are to be found exemplified and inspected on the public rolls, are questions that hereafter may be determined; but as to the supposition of Parliamentary attendance, there is every reason to think that such charters when discovered will not be found to contain any reservation of that service. Parliamentary attendance, rare and casual as it was in the days of the Conqueror, was one of those duties so universally understood under the feudal system, that like *wardships*, &c. *aids to redeem the King's person*, to *knight his eldest son*, or *aids to marry his daughter*, which never appear to be reserved in such early charters as now exist, it was not due *ex pacto vel conducto* or by express reservation in the grant, but was a service or duty incident to the lands, and due of common right.

It may be said that Military services were also an incident to such possessions, and yet that those services are to be found in many ancient charters as an express reservation; but it should be recollected that those reservations of Military service always specify the precise *number of knights*, or *quantum of military aid*, which the grantee should bring to the King in his wars, and this *quantum* was necessarily inserted in the record as a rule whereby the grantee and his heirs were to render not only their military but almost all their other aids, which seem to have been rated proportionably with the number of knights' fees, or quantum of Military service reserved to the Crown.

The opinion thus offered with respect to Parliamentary service may hereafter be borne out, as it is impossible to think that some of those numerous charters of William the First may not yet be discovered; but for the present that opinion must chiefly rest for corroboration on the form and terms of the following charters by which Henry the Second, in a situation similar to William, conferred estates and created dignities in Ireland. Those charters, it must be observed, are made within about a century after the Norman Conquest, and there is no reason for supposing that any material alteration in the form or language of written instruments occurred within that century: but if changes were made, let it be re-

collected that the charters now subjoined were executed in the days of such men as Glanville, Hoveden, &c. who appear in various records as the assistants of the Crown, and whose well-known intimacy with the laws and customs of England preclude us from thinking that in their days a reservation so deeply affecting the King's rights could be wholly forgotten.

In selecting the following grants as specimens of the form and terms whereby Seigniories were originally conferred in Ireland, care has been taken to insert only such as conveyed those estates which have been always considered as Feudal Parliamentary dignities; and though in the translated form in which those instruments are now offered some slight abbreviations of the original were occasionally made, yet the operative clauses and substance of each will be found carefully preserved.

Chief Rememb.
Roll, Dub.
10 E. 2.

Grant of the Lordship of Meath from King Henry the Second to Hugh de Lacy, A. D. 1172.

“ Henry King of England, Duke of Normandy and of
 “ Aquitaine, and Earl of Anjou, to the Archbishops, Bishops,
 “ Abbots, Earls, Barons, Justices and others his Ministers
 “ and Faithful, French, English and Irish of his whole land,
 “ greeting. Know ye that I have given and granted, and by
 “ this my present charter confirmed, to Hugh de Lacy, for
 “ his service, THE LAND OF MEATH, with all its appur-
 “ tenances, by the service of fifty knights, to him and his
 “ heirs, to have and to hold from me and my heirs as Mur-
 “ cardus Hu-Melachlin, or any other before or after him better
 “ held the same. And for an increase of this, I give all the
 “ fees which he rendered or will render about Dublin, while
 “ he is my deputy to do me service at the City of Dublin:
 “ Wherefore I will and firmly command, that the same Hugh,
 “ and his heirs after him, the aforesaid land may have, and
 “ hold all liberties and free customs which there I have or am
 “ able to have, by the before named service, from me and my
 “ heirs, well and in peace, freely and quietly and honourably,
 “ in wood and in plain, in meadows and pascuages, in waters
 “ and mills, in streams and pools and fishings and huntings,
 “ in roads and ways, and ports of the sea, and in all other

“ places and things to the same belonging, with all liberties
 “ which there I have or am able to give, and by this my
 “ charter have confirmed. Witness, Earl Richard son of
 “ Gilbert, William de Braosa, William de Albini, Reginald
 “ de Cortenai, (&c.) at Wexford.”

The above land of Meath contained about 800,000 acres ; and it appears that Hugh de Lacy, in the reign of Henry the Second, and his family after him, held their courts therein, with cognizance and jurisdiction of all pleas as well of burning, treasure trove, rape, and forestalling, as of all others arising within the said land, with all officers and their proper seals, &c. which cognizance and jurisdiction are distinctly stated to have been enjoyed by virtue of this grant—“ *virtute donationis et concessionis prædictæ.*” From this circumstance it is clear, that at the above period the civil and criminal jurisdiction might pass from the Crown without the usual and more express words for that purpose, perhaps as an incident to the lands conveyed. The attempts made by the Barons of Ireland to extend the jurisdiction of their courts, and to make the King’s Justiciary answerable to their writs, have been before noticed ; and it appears that on King John’s repressing such overstretched authority, Hugh de Lacy’s son Walter, who then inherited Meath, sought a new or confirmatory charter of the same lordship, which he obtained, but with such clauses as were considered necessary to secure the rights of the Crown from future encroachments.

Chief Rememb.
 Roll, Dub.
 1, 2 E. 3.
 Chancery
 Roll, Dub.
 2 H. 5.

Confirmatory Grant (with reservations) of the Lordship of Meath by King John to Walter de Lacy, A. D. 1208.
 Chart. Roll, T. L. 9 John.

“ John, &c. Know ye, that on the petition of Walter de
 “ Lascy, We have granted, and by this our present charter
 “ confirmed, to the same Walter his land of Meath, with all
 “ its appurtenances, to be had and held to him and his heirs
 “ of us and our heirs by the service of fifty knights. And
 “ moreover his fees in Fingal in the valley of Dublin, by the
 “ service of seven knights, in hereditary right for ever, with
 “ all liberties and free customs : SAVING to us and our heirs
 “ the *pleas of our Crown*, and the *plea*, if it arise between

“ any in his land, whereof one appeal another of a *breach of*
 “ *our peace or of felony* : SAVING also to us and our heirs
 “ that the *writs of right* of us and our Justiciary shall run
 “ in his land: And SAVING to us and our heirs, if any in
 “ his land suing another to us or our heirs or our Justiciary
 “ should complain of a default of justice in his court, that
 “ he complaining may prove in our court such default, and
 “ afterwards by our writ that the same plea in our court may
 “ be held and adjudged between them: SAVING likewise to
 “ us and our heirs, that if any person of the same Walter or
 “ of his heirs or of his court should complain that they to
 “ him did injury, and he the complainant give surety in our
 “ court of prosecuting his claim, that such plea may be sum-
 “ moned to our court, and there be by judgment of our court
 “ determined : SAVING likewise to us and our heirs the *cross*
 “ *lands and dignities* to the same appertaining. And We have
 “ granted to the same Walter and his heirs the wardship of
 “ his fees, although the lords of such fees elsewhere may hold
 “ of us in capite : SAVING to us and our heirs the *marriages*
 “ *of the heirs* of the same fees. Wherefore We will and firmly
 “ order that the said Walter and his heirs may have and hold
 “ the said land of Meath, and his fees of Fingal in the valley
 “ of Dublin, with all their appurtenances, well and in peace,
 “ freely and quietly, entirely and honourably, as is before
 “ mentioned. Witness, Lord John Bishop of Norwich, W.
 “ Earl of Warren, &c. at Hendford, the 24th day of April,
 “ in the 9th year of our reign.”

On the death of Lord Walter de Lacy, his son Gilbert suc-
 ceeded, and had issue Walter, Matilda, and Margaret. Of
 these children Walter died without issue, whereupon Meath
 became divided between his two sisters, one of whom (Matilda)
 married Geoffrey de Geneville, a Baron of England, and the
 other (Margaret) married to John de Verdon, Baron of Dun-
 dalk, &c. The moiety of Meath acquired by Sir Geoffrey de
 Geneville was called the Lordship or Liberty of Trim, from
 the name of the place where De Lacy had erected his castle
 as the “Caput Baronie,” and held his courts. This lord-
 ship was carried by the heir of De Geneville into the family

of Mortimer Earl of March; and it being afterwards inherited by Richard Plantagenet, Duke of York, it vested in the Crown on the accession of his son Edward the Fourth to the throne. After which an Act was passed in the 18th year of that King's reign, for the restoration of all the liberties, &c. of the lordship of Meath, as fully as the same had been enjoyed by Richard Duke of York and his progenitors, with the offices of Seneschal, Treasurer, &c. And it was also enacted that a grant lately made to Henry Lord Grey of those offices be confirmed, and that he Lord Grey and his officers may coin silver in the castle of Trim. In the year 1495, however, another statute was passed, and it was thereby enacted that this lordship should be annexed to the Crown, and that the records belonging to the treasury of the court of Trim should be delivered up.

Statute of
Ireland,
10 H. 7.
chap. 15.

The extensive lordship of Leinster, which comprized several counties, was obtained by Richard de Clare, Earl of Pembroke, on his intermarriage with Eva daughter of Dermot M^c Morogh, Prince of that country. It appears by an inquisition that the Earl obtained a grant of this lordship afterwards from Henry the Second; but this grant has not as yet been discovered; however his daughter Isabella by Princess Eva having married William Marshall, who became Earl of Pembroke, he, like De Lacy, and under similar circumstances, was obliged to seek a confirmatory grant of the seigniority from King John, as appears by the following Charter:—

Chancery
Inqs. Dub.
11 Cha. 1.

Grant of Leinster by King John to William Marshal, Earl of Pembroke, A. D. 1207. Chart. Roll, T. L. 9 John.

“John, &c. Know ye that We, on the petition of William Marshal, Earl of Pembroke, have granted and by this our charter confirmed to the same William his land of Leinster, with all its appurtenances, to be had and held to him and his heirs of us and our heirs, by the service of an hundred knights, in hereditary right for ever, with all liberties and free customs: SAVING to us and our heirs, &c.
“ (here follow all the savings as to pleas of the Crown, ap-

“peals to the King’s court, marriages of heirs, ecclesiastical dignities, &c. contained in the grant foregoing to Walter de Lacy.) Witness, Lord P. Bishop of Winchester, J. Bishop of Norwich, G. Fitz Peter, Earl of Essex, W. Earl of Salisbury, &c. Given by the hand of H. de Well, Archdeacon of Wells, at Marlebridge the 28th of March, in the 9th year of our reign.”

In right of this lordship, William Marshal, Earl of Pembroke, his sons or his coheirs, afterwards erected almost all the corporate (with many of the monastic) establishments now existing in the counties of Carlow, Kildare, Kilkenny, Wexford, &c. as appears by various charters of incorporation and of endowment still to be found on the public rolls.

Pat. Roll,
T. L.
40 E. 3.
p. 1.

On the death of Earl William’s five sons without issue male, his estates in England, Wales and Ireland were divided by King Henry the Third amongst his five daughters, or their husbands, as his coheirs. Of the lordship of Leinster, that part now known as the county Carlow was assigned to the Countess of Warren; the county of Kilkenny to the Earl of Gloucester; Wexford to John de Monte Caniso; Kildare to William de Vescy, and the rest of the province to Roger de Mortimer.

The lordship of Ulster, comprizing about one-sixth of the entire island, was one of the largest seigniories held under the Crown perhaps in either Ireland or England. It was originally granted by Henry the Second to John de Courcy, who enjoyed it as an Earldom: but the grant made on that occasion does not seem to have been enrolled. The jurisdiction and rights, however, which De Courcy exercised there, may be collected from several deeds executed by him during that King’s reign. In these deeds, which are witnessed by his *Seneschal*, his *Constable*, his *Chamberlain*, &c. he grants to the Prior of Down the power of holding a court with a civil and criminal jurisdiction through all his land of Ulster: he grants him also liberty of *passage* over the waters of Strangford and other the principal rivers, the *tithe* of all his *hunting* through his whole land and in all places where his

hunters meet. And for the health of his own soul, &c. and of the souls of all those who rendered him "consilium et auxilium" in the *acquirement of Ulster*, he grants that Prior the *tenth* cow and *tenth* animal of all his purchases, &c. Afterwards when he incurred King John's displeasure, we find a writ addressed to the "*Barons of Ulster*," telling them if they did not cause *their lord*, John de Courcy, to come to the King's service, as they were bound and gave hostages to do, he the King would seize on their hostages and estates. The Barons thus addressed were those of his kindred and friends, amongst whom he made subinfeudations of that vast territory, and who holding under him were bound to answer in this manner for their superior lord: and though John de Courcy did appear and was restored to favour, yet he never returned to Ireland, and this seigniority was granted to his more favoured opponent Hugh de Lacy by the following charter:—

Pat. Roll,
T. L.
42 E. 3.

Pat. Roll,
T. L.
6 John.

Grant of Ulster made by King John to Hugh de Lacy,
A. D. 1205. Patent Roll, T. L. 6 John.

"The King to Meyler Fitz Henry, &c. and the Barons of Ireland, &c. Know ye, that we have given and granted to Hugh de Lascy, for his homage and service, the land of Ulster, with the appurtenances, to have and to hold as John de Curcy held the same the day on which the same Hugh overcame him in the field, or on the day preceding: SAVING however to us the crosses of the same land:—And know ye, that we do retain with us the aforesaid Hugh, and are leading him with us in our service; and therefore to you we command that his land and all his you preserve, maintain and defend as our demesne. Witness myself, at Windsor, the 2nd day of May."

In the next year, King John confirmed this grant to Hugh de Lacy of the *whole land of Ulster*, "*de qua ipsum CINXIMUS in COMITEM*," to hold as fully as John de Courcy, and to render the service of one knight's fee for each cantred of the said land. This seigniority, with the earldom so created, was afterwards inherited by the family of De Burgo in right of Matilda de Lacy, and with De Burgo's heiress it

Chart.
Roll, T. L.
7 John.

came to Lionel Duke of Clarence, son of King Edward the Third, from whom it was inherited by Edmund Earl of March. It descended afterwards to Richard Plantagenet, Duke of York, whose son Edward becoming King of England as Edward the Fourth, the seigniority and honour of Ulster merged in the Crown.

Life of
King Henry
the Second.

The largest district in the South, namely, that of Cork, was granted by Henry the Second to Milo de Cogan and Robert Fitz Stephen, and the charter for this purpose was published by Lord Lyttelton from Sir James Ware; the copy thus printed there has been no opportunity of comparing with any original or official enrolment, but the Escheators' Inquisition in the Tower of London, No. 104, and many other records, afford conclusive evidence that King Henry the Second granted Cork by charter to Fitz Stephen and De Cogan hereditarily to be held by military services therein specified.

Close Roll,
T. L.
7 John.

As to the other great section of the island, namely, Connaught, Hoveden has preserved the "*Finis et Concordia*," whereby King Henry the Second, in the year 1175, confirmed it to "*Roderick King of Connaught*," who it was then agreed should hold it, and be a *King under him King Henry*, "*quod sit Rex sub eo paratus ad servitium suum*," &c. After his death, we find King John acquainting the Justiciary that the then King of Connaught had offered to hold one-third of that country in fee by the name of a *Barony*, "*nomine Baronie*," &c.; and other curious documents respecting that district subsequently occur; but ultimately, after many previous charters, it was confirmed on the 21st of May in the 11th of Henry the Third, to Richard de Burgo for his homage and service, as forfeited to the Crown by the transgression of Æthi (Hugh) *quondam Regis de Connoht*: to hold to the said Richard and his heirs by the service of ten knights.

Original
Exemplification
Trin. Coll.
Dub.

While Richard de Clare Earl of Pembroke was Deputy to Henry the Second in Ireland, on behalf of the King he made the following grant of the seigniority of Bray to Walter de Riddelsford.

Grant of the Lordship of Bray by Richard de Clare,
Earl of Pembroke, to Walter de Riddelsford, A.D. 1173.
Antiquissimæ Roll. Chan. Dub.

“ Earl Richard, ‘ vices Domini Regis Angliæ in Hibernia
“ agens,’ to all seeing or hearing (these letters, greeting.
“ Know ye, that I have given and granted on the part of the
“ said Lord the King of England to Walter de Ridelesford,
“ Brieu and the lands of the sons of O’Tuethill, with all the
“ appurtenances, so that within the appurtenances of those
“ lands the fee of five knights he shall have, (&c.) : these (&c.)
“ he shall have to him and his heirs of the Lord the King
“ of England and his heirs, freely, quietly and honourably
“ on land, on sea, in wood and plain, in monasteries, in
“ mills, in waters, in fisheries, (&c.) and in all liberties : to
“ have and to hold in fee and heirship by the free service of
“ three knights, to be done at Dublin (&c.) Wherefore I
“ will and firmly command, on the part of the Lord the King
“ of England, that the aforesaid Walter and his heirs, all his
“ holding so freely and quietly of the Lord the King of
“ England and his heirs may hold as any person better
“ heretofore held them in Ireland.”

After the year 1177, when Prince John had conferred on
him the dominion of Ireland by his father, he confirmed the
above grant, as also another made by the Earl to the same
Walter de Riddlesford of the seigniority of Castledermott.
In doing so, however, we find him by express terms adding
thereto the civil and criminal jurisdiction in the following
terms : viz. *cum soc, sac, tol, them, infangthesf, judicio aquæ
et ferri, et duello, et fossa, et furcis, et cum wrecco maris, et
omnibus libertatibus* ; excepting, however, the donation of
bishopricks, pleas of the crown, &c. After this we find
King John specially recognizing the possessions of this Lord
de Riddlesford as *Baron of Bray*.

Antiquis.
Roll,
Chan.
Dub.

Chart.
Roll,
T. L.
9 John.

In or about the year 1185, John also confirmed to Robert
de Saint Michael the lands of Dangen, Tadhoyle, &c. which he
had by gift from King Henry the Second : to hold the same,
&c. with *sock, sack, toll, them, infangthesf, judgment of water,*

iron, duel, the pit and gallows, &c.; reserving, however, the donation of bishopricks, abbeys, pleas of the crown, &c.

After the year 1177, when John had been vested with the Earldom of Mortaigne by his brother King Richard, he confirmed the seigniority of Howth to Amalric St. Lawrence, ancestor of the Barons and Earls of Howth, by the following charter, now entered on the Antiquissimæ Roll, Chan. Dub.

“John, Lord of Ireland, Earl of Mortaigne, to Archbishops, Bishops, Abbots, Earls, Barons, Justices, Constables, and all his Bailiffs and Ministers, French, English and Irish, greeting. Know ye, that I have given and granted, and by this my present charter confirmed to Amalric de Sancto Laurentio, for his homage and service, the land of Houede, with all its appurtenances, so freely and quietly as his father ever better held the same, by the service of one knight for all service. Wherefore I will and firmly command, that the aforesaid Amalric and his heirs after him, may have and hold of me and my heirs the aforesaid land by the aforesaid service, freely and quietly, entirely and fully, in wood and in plain (&c.) in churches and chapels, with all other their liberties and free customs,” &c.

This estate, with others in the counties of Dublin, Louth, &c. continued in possession of the descendants of Sir Amalric or Almaric, as he is elsewhere called, who were Lords of Howth and Barons of Parliament; and it is worth observing, that in 1446, when Christopher Lord of Howth was sued by the Crown for an “Heryngswyne,” twelve feet long, cast ashore at Howth, as a royalty, his Lordship pleaded that he and his ancestors time immemorial were lords of the manor or lordship of Howth, and as such were seised of all porpoises, grapes and heryngswyne thrown ashore there, &c. And on this plea he obtained judgment against the Crown. As Feudal Lords of Howth they continued to be summoned, and sat amongst the Barons in Parliament, until the year 1767, when Lord Thomas was by letters patent created Viscount St. Laurence and Earl of Howth, and since that period the ancient Barony has been merged in those superior titles.

Chief
Rememb.
Roll, Dub.
24 H. 6.

There are to be found also during Henry the Second's reign other grants and confirmatory charters of seigniories, with a civil and criminal jurisdiction expressly named ; and so perfectly did he establish Baronial dignities in Ireland, that we find his son King John, immediately after ascending the throne, erecting additional Baronies by charter, and ordering the same to be held as freely, &c. as the *others his Barons of Ireland held theirs*. Thus, in the instance of William de Braosa, to whom King John granted the honour of Limerick, "honorem de Limerick," with all its appurtenances, (except the city of Limerick, the donation of bishopricks, &c.) as the same had been given by Henry the King's father to Philip de Braosa, his uncle, by the service of sixty knights, we find the King granting the same to De Braosa "*adeo libere ut alii capitales Barones nostri de Hybernia liberius tenent per prædictum servicium.*" In the case also of Geoffrey de Constantine, on whom the King conferred a seignior by charter, it was expressly granted that he should hold such seignior by the service of five knights, with *sac and soc, toll and theam, and infangthef, with judgment of water, iron, and the duel*, "*sicut alii Barones Hybernix tenent :*" saving all things to the Crown belonging.

Chart.
Roll, T.L.
2 John.

Same Roll.

SUBINFEUDATIONS.

It is necessary now to advert to a circumstance connected with the greater number of those Feudal Baronies that still rank as Peerages in Ireland.

From the extent of the territories assigned to De Clare, De Lacy, De Courcy, &c. some of which comprized several counties, they found it necessary to parcel out such unwieldy possessions amongst their kinsmen and companions, not only for the purpose of maintaining the possessions thus acquired, but of being able to render the large military services reserved on their grants to the Crown.

It appears from the authorities collected by Sir Martin Wright, that Subinfeudations, which he considers to be "an original and necessary branch of the Feudal policy," were

Law of
Tenures,
Ch. 3.

warranted by the Feudal law; and accordingly we find that De Clare, De Lacy, &c. for the reasons before mentioned, did make subinfeudations in their possessions, and assigned estates to their companions, who thereby became bound to render to the original grantee of the Crown and his heirs so many knights' services as were proportioned to the estates or subinfeudation conferred.

The form of instrument used before the year 1177 by Hugh de Lacy, when granting the district since called the Barony of Delvin to his kinsman Sir Gilbert de Nugent, appears to have been as follows:—

[From Clarendon Collection, No. 4798, British Museum.]

“ Hugh de Lacy to all the sons of Holy Mother Church,
 “ and to his Men and Friends, French, English and Irish,
 “ greeting. Know ye, that I have given, and by this my
 “ present charter confirmed, to Gilbert de Nogent and his
 “ heirs, all Delvin, which the O’Finilans held in the time of
 “ the Irish, with all the appurtenances and towns which are
 “ contained within Delvin aforesaid (except the town of the
 “ Abbot of Foure, by name Torrochelach), for the service of
 “ five knights to be rendered within my land of Meath,
 “ to him and his heirs from me and my heirs, freely and
 “ quietly, and honourably and fully to be held, in wood and
 “ in plain, in meadows and pascuages, in churches and
 “ chapels, in roads and ways, in waters and fisheries, in
 “ pools and mills and huntings, with all liberties and free
 “ customs which there I have or ought to have. These
 “ being witnesses,” &c.*

* The Author was unable to discover the original charter from Hugh de Lacy to Gilbert de Nugent; but as such a charter is referred to in some other records, and as ancient paper copies of it are preserved in the British Museum and Lambeth Library, he has ventured to insert the above translation. The Most Noble the Marquess of Westmeath, whose family has enjoyed the seignior of Delvin for more than six hundred and fifty years by virtue of such a charter, has been pleased to commence a diligent enquiry through the family muniments for this ancient instrument, and there is little doubt but his Lordship’s search will be successful.

The land of Delvin thus conveyed, containing about 20,000 acres, from time immemorial gave the dignity of the Peerage as a Parliamentary Barony to the family of De Nogent, or Nugent, and is still enjoyed by that family, though merged in the superior dignities of the Earldom and Marquisate of Westmeath, under more modern patents of creation.

By a deed almost of similar form, addressed to *all his Lords, Friends and Men, French, English, Welsh and Irish*, Robert Fitz Stephen conveyed to his nephew Philip de Barry three cantreds in his land of Cork, called Olethan, and two other cantreds elsewhere: to hold by the service of ten knights as *freely as the said Fitz Stephen held of the Lord the King*. This seigniorship remained in the family of De Barry, who always ranked as Parliamentary Peers in right of the Baronies of Olethan, Buttevant and Barrymore, until elevated to an Earldom by Charles the First.

Other subinfeudations were made in different parts of the kingdom, and the following list contains the names of the principal seigniorships which appear by the records of the Exchequer to have been conferred in the manner above described.

SUBINFEUDATIONS by the Lords of LEINSTER. The Barony of Ophaley conferred on the Fitzgerald family, afterwards Earls of Kildare and Dukes of Leinster: Naas, Norragh or Norraghmore, &c.

SUBINFEUDATIONS by the Lords of MEATH. *Delvin, Skrine, Rathregan*, with *Killallon* and *Tullaghanogue*, now merged in the Barony of *Killeen* and Earldom of *Fingal, Slane, Dunboyne, Navan, Galtrim, Gormans-town*, &c.

SUBINFEUDATIONS by the Lords of CORK. *Fermoy*, afterwards merged in the Viscounty of that name. *Olethan*, *Buttevant* or *Barrymore*, enjoyed by the family of De Barry, who were advanced to an Earldom, &c.

In all those subinfeudations the Crown seems to have acquiesced, and not only recognized them, but enforced the performance of such feudal duties and services (the marriage

Pat. Roll,
T. L.
6 John.

Pat. Roll,
T. L.
5 John,
and Oblat.
Roll,
9 John.

Articles of
Agree-
ment,
Red Book
Chief Re-
memb.
Off. Dub.

of heirs in Leinster and Meath only excepted) as the feudatories were thereby bound to render to the superior lord. This is evinced in the Barons of Ulster giving or becoming *hostages* to King John for *their* lord John de Courcy, as also in the orders sent by the King to the same Barons respecting that lord; as well as to the *Barons of Meath*, respecting their lord Walter de Lacy. One of the rights acquired by those Lords was that of the *wardship* of their feudatories' estates and heirs while under age; and so early as the year 1204 there is a grant to the Earl of Pembroke of the wardship of the estates and heir of Gerald Fitz Maurice (Baron of Ophaley), because, as the record says, such estates "were of the fee of the said Earl;" and after that period the Lords of Leinster and of Meath seem to have constantly enjoyed this right with the concurrence of the Crown. Fines for *relief*, or *primer seizin*, were also among those rights; and when King John took again into favour Walter de Lacy, and restored to him his lordship of Meath which had been seised into the hands of the Crown for some time, it was expressly covenanted, that the King should have all the *finés* that had been paid while the estate was in his hands, but in future that such fines should be paid to the said De Lacy, viz.—by Richard de Tuit (Baron of Killallon), Radulph Parvus (Petit, Baron of Dunboyne), Adam de (Nugent) Capella (Baron of Delvin), &c. *each for his Barony*. In the reign of Edward the Second, Maurice de Carreu, who represented the original grantees of Cork, obtained a special order on this subject. He petitioned the King, setting forth that various fees in Ireland were time immemorial held of him and his ancestors, and that thereout were due divers services which formerly were rendered to the said Maurice's ancestors as "*Dominis immediatis*," they holding the same in capite, and performing to the Crown the services arising thereout;—that amongst those fees were Kyllde, held under the said Maurice's ancestors by David de Barry, at the service of three knights; and Oglassyn and Carbery by Maurice Fitz Gerald, at the service of eight knights;—that these services, with others, formerly got into the hands of the Crown by

minority, &c. where they were retained: whereupon the King orders that the said Maurice may distrain for the arrear of those services according to law and custom. In a similar manner in the inquisitions held down to the reign of Charles the First, the Crown officers always specified the superior lordship of which those seignories were held, and the nature and amount of the services due thereout to the lord of the fee. The King also recognized the liberties and courts which those superior lords held within their seignories, and his writs were always directed for execution to the seneschal or other officer appointed by the lord, as appears by the numerous writs, &c. issued to the seneschals of Meath, Wexford, &c.

Chief Rememb.
Roll, Dub.
4, 5 E. 2.

To this extent the Crown recognized and maintained the rights of its own grantees; and indeed so important and extensive afterwards did those rights appear to be in the hands of a subject, that it was considered such seignories and liberties or jurisdictions must have been held as palatinates. It is not easy to determine precisely the jurisdiction belonging to palatinates or "*contes paleis*;" but if it was thought that in Ireland there at any time existed such a palatinate as that of Chester, where a subject created his own Barons, held his own Parliament, and never permitted his feudatories or tenants to be summoned or elected for the King's Parliament during several centuries, such an opinion will prove wholly untenable. A palatinate of that description would have left the King scarcely more than half a dozen subjects in Ireland, and two of those subjects, the Earl of Pembroke and De Lacy, from their immense estates and influence, their intermarriage with the daughters of M^cMurrough and O'Connor, as well as from other causes, were frequent objects of distrust and fear to King Henry the Second and his sons. On the contrary, however, we find the Crown from the earliest period exercising its authorities over all the English inhabitants (whether holding mediately or immediately) as its subjects. So soon as the second year of his reign, King John issued his order prohibiting *recognitions* to be made in any court except in his own, and commanding that

History of
Chester,
Lond.
1656.

Chart.
Roll, T. L.
2 John.

Pat. Roll,
T. L.
6 John.

Pat. Roll,
T. L.
8 John.

Pat. Roll,
T. L.
9 John.

See pages
141, 143.

no person should be *outlawed*, but in his the King's Court. In the sixth year he directed writs to "the Barons, &c. of Ireland," acquainting them that he had given power to his Justiciary to issue his writs *throughout his the King's whole land and dominion* in Ireland, namely, his writs of right, of mort d'ancestor, of novel disseisin, &c.; and he therefore orders those Barons to cause the same to be done and firmly observed accordingly. Within two years after this, John again sent writs to Walter, Hugh and Robert de Lacy (lords of Meath and of Ulster,) William Petit, Richard de Tuit, Adam de Hereford, Philip de Prendergast, William Baron of Naas, John de Clahull, Maurice de Londres, Thomas de Hereford, and "*the other Barons of Leinster and Meath*," expressing surprise that they should attempt establishing a new form of trial without his assent, or seek his Justiciary to deliver to them without his orders what had been taken into the hands of the Crown by Royal precept; and he commands them *not to default towards him their lord*, and declares that, with God's aid, his rights he will acquire according to time and place. In the next year, by an ordinance dated at Windsor on the 9th of November, he charged *all persons throughout the whole of Ireland*, not to answer in any court whatsoever but in that of himself or of his Justiciary, for any pleas of freeholds, or pleas of the Crown; and that none should buy or sell with or for any *money* but his the King's only, throughout his *whole dominion in Ireland*. It is plain from these records that the King had regal authority, and enforced his laws amongst every class of the English inhabitants, as well within as without liberties; and if any further proof were necessary, we have it just at this period in the confirmatory grants made by King John of the principalities of Meath and Leinster. In those two charters, which were made *at the request of the grantees*, it will be perceived that the King reserved to himself all *pleas* of the Crown, all *appeals* from the courts of those lords, *free currency for his the King's writs of right*, &c. the *donation of all ecclesiastical dignities*, and that valuable right, the *marriage of all heirs* holding estates under those two lords. Meath and Leinster thus

granted were two of the greatest liberties held under the King; and it is almost needless to say, that, without the rights which are by those two charters expressly reserved to the Crown, no such palatinate as that above described could exist.

As the authority of the King was thus enforced through the great seignories or liberties, we find that those Barons within them who acquired their possessions by subinfeudation, were also liable to the Royal writs for military duties, pecuniary aids and other services, equally with the superior lords. In the 2nd of John, that King ordered them to strengthen their castles, declaring at the same time, that if through their default damage accrue to his land, he will order them to be seised and granted to others who will fortify them. In the next year, he addressed a special writ to the "Barons of Meath," and ordered them to give faith to what his Justiciary Meyler Fitz Henry should explain to them on his behalf. In two years after, he sent writs to *all* Archbishops, Bishops, &c. Earls, Barons, &c. in Ireland, without distinction, for an aid against France; and when returning thanks for this aid, he particularly addressed letters to "the Barons of Leinster," in which he expresses his sense of the service they had rendered him, according to what his the King's Justiciary had directed. In the eighth year of his reign, the King specially addressed the Barons of Meath, thanking them for some other service they had performed, and styling them "*dilectis et fidelibus suis Baronibus et Militibus Midia*," he requests, in continuance of their assistance to his Justiciary, that they would cooperate with him in fortifying Dublin, so that thereafter he the King should be bound to *attend the more graciously to their just petitions*.

In short, it may be sufficient here to state generally that the Barons of Meath and Leinster are found from the year 1199 in the earliest rolls of the Tower of London, and in the most ancient rolls of the Law courts in Ireland, as parties in suits of every form and description in the King's courts. From the reign of John they received the King's writs of military summons like the other Barons; and from

Chart.
Roll, T. L.
2 John.

Pat. Roll,
T. L.
3 John.

Chart.
Roll, T. L.
5 John.

Pat. Roll,
T. L.
6 John.

Pat. Roll,
T. L.
8 John.

See Writs
of Sum-
mons in
Chap. XI.

King's
Letter and
Creation
Patent for
Earldom
of Fingall,
Earldom
of West-
meath, &c.
Election
of Chief
Governor
on death
of Qu. Eli-
zabeth.
Chancery
Roll, Dub.

Chief Re-
memb.
Roll, Dub.
18 R. 2.
&c.

the earliest period we find them receiving special writs of parliamentary summons like the other Lords, directed individually to themselves, and not to the Lords of the liberties under whom they held. They also, in case of absence or non-attendance, were fined like the other Lords of Parliament; and it is worth remarking, that the writs for electing of knights in counties, and of citizens and burgesses in cities and towns, were always directed to the seneschals or officers of Meath and the other liberties, in the usual form and language; and that the persons so elected were fined if absent, like all the other knights and citizens returned from counties and cities where no such liberties existed. In the early statute rolls themselves are enactments in which the baronies of Gormanstown, Slane, Delvin, Killeen, &c. are declared to be Parliamentary Peerages, and, in some instances, their place and precedence as such in Parliament are regulated; moreover, in the creation patents of James and Charles the First, we find the King, when advancing some of those Barons to higher honours, reciting that they were of *the most ancient order of Barons* in his kingdom of Ireland; and such recitals are corroborated by the fact, that whenever the election of a Chief Governor took place under the act passed in the reign of Henry the Second, those Peers who originally obtained their estates by subinfeudation are to be found amongst the Lords Spiritual and Temporal as electors, which circumstance shews that they were comprehended amongst the nobles mentioned in that very ancient statute. But nothing more clearly proves the King's authority over those lords residing within such liberties or great seigniories of Meath, Leinster, &c. than the Royal writs which constantly appear on the rolls directing the seneschals of such liberties in the King's name to distrain those lords and their sons holding a certain amount of property when arrived at due age, to make them receive from the King the "*Ordinem Militarem*," or order of knighthood pursuant to the statute. Those writs, which became a profitable branch of the King's prerogative, are most frequent, and the inquisitions held by the seneschals in obedience to the King's com-

mands, always find the value of the property such persons possessed; but it never was a point of enquiry nor of objection, that those persons held their estates only *mediately* of the Crown: on the contrary, after patents of exemption came into use, those holding by subinfeudation will be seen, like the rest of the nobility and gentry, paying fines to the King for his letters exempting them from taking on them the honour of knighthood, discharging the office of sheriff, &c. Under all these circumstances it is evident that from time immemorial, or at least from the commencement of public records, the Crown exacted and obtained "*consilium et auxilium*," military services, pecuniary aids and other duties, as well from the inhabitants of peculiar liberties as from all others his subjects throughout Ireland.

It only remains now to be enquired whether the possessions of one of those lordships, obtained by deed or charter from the King's grantee, could vest, during the reign of Henry the Second or subsequently, a civil and criminal jurisdiction and right to attend the "*commune consilium*" in the person acquiring such subinfeudation.

In considering this question, it should be recollected that the King's grantees, when making such conveyances, were seised of, or at least did exercise the rights alluded to; and in the charters already cited to De Nugent and De Barry, it appears those conveyances were made as fully as the grantor or subinfeudator held the same territories of the King, or as fully as he then had or ought to have had the same. This would lead to the supposition that the feudatories acquired all the rights and jurisdiction which the grantor of the Crown had previously exercised or enjoyed as incident to those territories, particularly in the twelfth century, when such great weight was attached to tenure.

See pages
150, 151.

But these with other reasons equally forcible are encountered by that rule of law so long established, that all degrees of Nobility must be derived from the King; and hence it is not unreasonable to suppose, that after such conveyance or subinfeudation made by a subject, some confirmatory or other act of the Crown was requisite for the more perfect creation

of a Feudal Parliamentary dignity. This supposition derives force from a few charters still existing, whereby the Crown confirmed those subinfeudations. Thus, for instance, Prince John in the year 1185 confirmed the grant of the barony of Naas, containing about twenty-five thousand acres, which Richard Earl of Pembroke, within whose seigniority of Leinster it lay, had conferred on a member of the Fitz-Gerald family, and the following is the substance of the Prince's charter :—

Chief Re-
memb.
Roll, Dub.
20 E. 4.

“ John, son of the Lord the King of England and Lord of
“ Ireland, to all his Men and Faithful, French, English and
“ Irish, greeting. Know ye, that I have granted, and by
“ this my present charter confirmed to William Fitz Morice
“ and his heirs, one cantred of land which Makelan held, &c.
“ in which is situated the town of Naas, and which Earl Rich-
“ ard gave to Morice father of the same William, to be held
“ of the heirs of Earl Richard by the service of five knights,
“ &c. Wherefore I will and firmly order that the said
“ William and his heirs after him may have and hold well
“ and in peace, freely, wholly, fully, honourably and peace-
“ ably, all the aforesaid land, with its appurtenances, in land
“ and on sea, in wood and plain, in castles and fortresses, in
“ boroughs and towns, in churches and chapels, &c. *And I*
“ *have granted also* to him a market at his borough of Naas
“ every Saturday weekly. *Also I have granted* to him sack
“ and sock, and toll and them, infangthef, sonethef, judg-
“ ment of water and iron, and the duel, and the pit and the
“ gallows, and all other liberties and free customs which be-
“ long to the same land ; except the pleas, &c. appertaining to
“ the Royal Crown, which I retain for my own use. Wit-
“ ness Berthram de Veredun Seneschal, &c. at Kildare.”

Chart.
Roll, T. L.
9 John.

Afterwards the same King by charter confirmed to *William de Barry* the reasonable gift which *Robert Fitz Stephen* made to his father John de Barry of three cantreds in *Olethan*, two in *Muskerry*, *Dunegan*, &c. in the land of Cork by the service of ten knights, as the charters of the same Robert Fitz Stephen reasonably testify : and therefore the King wills and firmly orders that the said William and his heirs should

“ have and hold the said lands well and in peace, freely and quietly, in all places and things, with all liberties and free customs to the same appertaining, &c. Saving to the King all things to the Royal Crown belonging. Witness, &c. at Wudestock the 8th of November.”

Another confirmation was made by the same King to William de Barry, son and heir of Philip de Barry, of the reasonable gift which the said Robert Fitz Stephen made to his father of the lands of Killede, &c. in the county of Cork.

Chief Rememb.
Roll, Dub.
29 Eliz.

And at a later period we find the Crown confirming by charter “ Almarico de Sancto Amando,” for his homage and service, those four carucates of land called “ le Ryn,” which formerly belonged to Ua-gorman (O’Gorman) the Irishman: to have and to hold to the said Almaric and his heirs for ever by doing thereout to the King and his heirs the service of one half knight’s fee, well and in peace, freely and quietly, with all liberties and free customs to the same land appertaining.

Chart
Roll, T.L.
14 H. 3.

The seigniorship so confirmed is stated in the statute of 1295 to have been held of Lord Theobald de Verdon (lord of one moiety of Meath, as coheir of Hugh de Lacy, the original grantee) by Sir Almaric de Saint Amand; and afterwards this Sir Almaric and his son being Barons of the English Parliament, to which they were constantly summoned and obliged to attend, sold this seigniorship to the family of Preston, and that family from the reign of Richard the Second were summoned and sat in the Parliament of Ireland as Lords of Gormanstown and Kells, until the fifteenth century, when they were advanced by patent to the dignity of the Viscounty of Gormanstown.

In this manner we have decided proofs that some of those subinfeudations were confirmed by act of the Crown; and it may be fairly concluded, if any *patent, charter, fine, or close* rolls of the reign of Henry the Second or Richard the First now existed in England or Ireland, we might be able to trace more instances to the same effect.

But if the few instances so collected be not sufficient to establish it as a general principle that all such subinfeudations were necessarily confirmed by the Crown, yet there are other

records which clearly prove that in almost all the other cases of seigniories subinfeudated, the King to a certain extent confirmed the estates so acquired, and added thereto some high privileges or royalties, which we must thereby conclude the original grantees or great lords did not possess or could not convey to their feudatories when making those subinfeudations. The records alluded to are several charters or grants specially made by King John, Henry the Third, &c. whereby those Kings granted to the Barons of Ophaley, De Barry or Buttevant, Athenry, Dunboyne, Killallon or Killeen, Slane, and other Lords respectively, the royalties, privileges, liberties, &c. of free chase, free warren, annual fairs, weekly markets, &c. &c. to be enjoyed and exercised within the very seigniories which they had been long before possessed of, and which they had acquired by such subinfeudations from the Earl of Pembroke, De Lacy, and others the original grantees of the Crown.

These grants of Royalties seem to have been sought and accepted of by nearly all the Feudal Peers of Parliament not holding *immediately* of the King; and they not only prove that certain high and eminent rights over those seigniories were considered to be vested in the Crown even long after the "*solum et fundum*" of such territories had been granted to others, but also that the persons then seised of such territories by subinfeudation acknowledged this paramount authority of the Crown over their estates, and as subjects accepted from the King an important part of the rights and franchises then necessary for the full enjoyment of Baronial dignity, but which it would appear did not or perhaps could not pass by the act of the Crown's grantee.

MISCELLANEOUS NOTES.—The fine usually imposed on the Baronage for absence from Parliament was one hundred shillings; but occasionally the amercement was lower, and towards the end of the fifteenth century a still smaller fine was imposed, perhaps owing to the statute 25 Hen. VI. c. 8, which enacted that no Lord of Parliament should be amerced in pleas real or personal more than other people.

Peers of Parliament were exempted from serving the office of Sheriffs by the statute 27 Hen. VI.

It appears by a recital in an act of the 1st Edw. IV. that by statute it was ordained that no Lord Spiritual or Temporal should be sued by the King or others for two weeks before or two weeks after Parliament.

The right of the Lords Spiritual and Temporal to assist in the election of a Chief Governor under the statute of Henry the Second is declared by the 18th Edw. IV. 2nd Ric. III. &c.

Peers not to appear in Parliament without their robes under penalty, 10 Hen. VII. c. 16.

By the statute 10 Hen. VII. c. 6. it was enacted, that no Citizen, Burgess or Freeman of any city or town should receive livery or wages from Lords, or make promise or surety by indenture to them, under penalty of being deprived of their freedom and liberty, &c. And no person should be retained by such Lords under penalty of £20. to be paid by the retainer and the retained. And by the next chapter of the same statute it was enacted, that no copy or great town receive or admit any person to be Alderman, Juror, or Freeman, but such only as had been apprentices there, or continually inhabiting within the same; nor call Lords or others to their counsels or congregation, except their Recorder and learned Counsel. Both those statutes were enforced, as appears by the court rolls of Queen Elizabeth's reign, wherein we find a verdict for seven hundred marks against the Corporation of Naas, for admitting certain persons to the freedom of that borough who had not been apprentices there. And on the same rolls are Quia tam proceedings against Sir Morogh na Dowe O'Flaherty,* for that he, contrary to the above statute, on the first of

* Sir Morogh na Dowe (Morogh of the Battle Axes) O'Flaherty was the native chieftain of West Connaught, and was descended of the O'Flaherty whom, on the 7th of July 1243, King Henry the Third, by writ of Military Summons, entreated to join him in England with potent succour, "et bona gente muniti," against the King of Scotland, and to whom succeeded Prince Rotheric O'Flaherty, who in the year 1300 is styled by the King's Attorney General "*Regulus occidentalis partis Conaciæ*," and Patron and Founder of the bishoprick of Anaghdown,

April retained in his service at Kilmainham in the county Dublin, William Martyn, Anthony Lynch, Stephen Roe French, and Cornelius O'Halloran, merchants of Galway, and gave them four several cloaks for their livery, to serve him the said Morogh in form "stipendiariorum," anglicè "reteyners," and not otherwise.

After the revision of the Baronage, which took place about the end of the fourteenth and commencement of the fifteenth century, when it seems to have been held that no person ought to be summoned to Parliament unless those *holding by barony*, several Peers who had ranked as Barons during the

as appears by the Chief Remembrancer roll of that year. The occasion of Sir Morogh's being at Kilmainham when he had the above merchants of Galway as "retayners" in his train, is explained in the Annals of the Four Masters, as translated by Edward O'Reilly, Esq. It appears that in the year 1585 most of the Irish septs being at peace with Government, Sir John Perrot, then Lord Deputy, issued his summons to their nobles or chieftains to attend a Parliament which was to assemble in the month of May: and accordingly those Annals relate, that amongst the native nobles there came Morogh na Duah, the son of Teige, the son of Morogh, who was son of Rory O'Flaherty, from the western district of the province of Connaught. Sir Morogh was the first of that family who held his estate by English tenure; and for that purpose surrendered to the Crown all his manors, castles, demesnes, lands, advowsons, &c. in the counties of Galway and Mayo, as also "the captainship, title and name of O'Flaherty, and all the Irish customs to the same name incident or belonging," all which castles, manors, &c. Queen Elizabeth, by letters patent, on the 12th of January 1588, granted to him, his heirs and assigns for ever, with half the goods of all persons attainted of felony within his territory, power of holding a court baron and court leet, and of nominating a seneschal, &c. to execute the duties of the said courts. Sir Morogh died in 1594, and by his will, which is written in the English language, he left his son Rory Sheoghe O'Flaherty his heir, and "chiefe of and over my children, name, kindrede, and "countrie." His grandson Teige Oge, son and heir of his eldest son by Honora daughter of the Earl of Clanrickard, succeeded however to the chieftaincy; and after his death the descent of the estate in his family may be easily traced through the public rolls and inquisitions, by one of which latter records, in 1607, it was found that sevenfold restitution should be made to the O'Flaherty for any depredations committed within his district; that his people should furnish him at stated periods with a butt of wine—should give him notice before taking the wreck of the sea—and, in imitation of the ancient Feudal law, should render their contributions towards the marriage of any of his daughters. Amongst

two preceding centuries, and who as such always had writs of special summons, and were amerced for absence from parliaments, seem to have lost their parliamentary dignity. This is particularly remarkable in the commencement of the fifteenth century, when the extent of landed estates necessary for the support of a Parliamentary Barony being fixed by the "*Modus tenendi Parliamenta*," several of the most ancient Peers whose possessions had been diminished by alienation or otherwise, ceased to be summoned to Parliament, and lost their privilege in that respect. But there were other and almost as important rights then attached to the Peerage,

the noblemen and chieftains who went out of Ireland to Charles II. in his exile on the Continent, and who were afterwards specially named in the King's letter from Breda upon his restoration to the throne of England, was Captain Morogh, who was then the O'Flaherty, and who married Honora daughter of the Viscount Mayo. On 24th Sept. 1745, amidst all the alarm of the Scotch rebellion, the representative of this family, which, as was stated in the journals of the day, "from time immemorial" possessed the west of the county Galway," repaired to Dublin, and on being presented at the Castle to the Earl of Chesterfield, then Lord Lieutenant of Ireland, he gave his Excellency the most solemn assurances that he, his family and people, would continue their fidelity to his Majesty's person and government. Sir Morogh who succeeded, marrying the Honourable Jane Bourke, was father of Bryan, John, Thomas, Patrick, Morgan, Michael and Theobald. Of these, John, the eldest surviving son, inherited the estates, and accepting a commission in his Majesty's army, was styled in that document Sir John O'Flaherty, his ancestors having been always held to be hereditary Knights of West Connaught. Sir John's son and heir is the present Thomas Henry O'Flaherty of Lemonfield in the county of Galway, Esq. to whom descended the estates, jurisdiction and seneschalship of his ancestors in West Connaught, and the power and authority of whom amongst "his" name, kindred, and countrye," are at this day as fully recognized and respected as was the dominion or government of his ancestors in and before the reign of Elizabeth. Sir John's second brother, Thomas, was father of John Bourke O'Flaherty, Esq. Member of Parliament for Callan, and High Sheriff of the county of Kilkenny, who possessed estates in various parts of the kingdom; as he was also of the late Theobald Richard O'Flaherty, Esq. who for many years was Deputy Keeper of the Parliamentary Records of Ireland, and whose politeness and liberality in affording the freest access to the valuable information contained in that department entitle him to the grateful recollections of the Author, and will, it is hoped, form some excuse for the length of this present digression. — *Inrolments, Inquisitions, Wills, and Family Papers.*

and in consequence, though they voluntarily gave up (as happened in Scotland about the same period) or lost their parliamentary dignity, yet they continued to be, for all other purposes, great Lords or Barons, keeping their courts baron and discharging those other great public trusts which the social policy of the day reposed in their order. Hence those Peers were still styled Lords and Barons on our rolls in all royal and judicial instruments; and the statute of "Additions," which was re-enacted in Ireland in a few years after the alteration took place, as well as that nicety or prolixity of pleading which seems to have first crept into our court rolls in the fifteenth century, preserved those titles of Lord and Baron in such families down to the reign of Charles the Second. This particularity of ancient records as to names and titles was not confined to legal proceedings, but after a time remarkably distinguished the letters patent and other instruments emanating from the Crown: thus in that century so eminent an individual as the Viscount of Gormanstown is recognized by no less than four *alias* names (each of which, we must presume, was considered legally necessary for his identification) in the one patent, viz. "William Preston, Viscount of Gormanstown, alias William Preston, Knight, Viscount of Gormanstown, alias William Preston, Knight, Lord of Gormanstown, alias William Preston, Knight; and in various letters patent to the Ormond, Wellesley and other distinguished families, we find a still more numerous collection of *alias* names. Amongst the Peers who thus lost their parliamentary dignity after the reign of Edward the Third, and were not subsequently summoned, but who were still styled Lords and Barons down to the reign of Charles the Second, were Husat, Huse or Hussey, Baron of Galtrim; De Angulo, Baron of Navan; Feypo, Baron of Scryne; Calf, Baron of Norraghmore; De Loundres, Baron of Athboy; Power, Baron of Donhill; and some others, who in point of antiquity of descent and of original extent of possessions might vie with many of those Peers who preserved their parliamentary dignity. So great however was the mystery in which the origin of the Irish Baronage formerly lay conceal-

ed, that some writers in the reign of James the First formed the wildest conjectures about those persons who in their time were styled Lords and Barons, but had no voice or seat in Parliament; those writers called them Palatine Barons, without considering that most Peers then in the House being as fully entitled to that appellation, such a name could not account for this apparent anomaly in the Peerage. Again, it was said they were Bannerets and not Barons; but in this case it was not recollected that the dignity of Banneret, which was bestowed in the field, might be conferred on the highest Peer, and could not diminish the rights, parliamentary or otherwise, of those who won it. This latter instance, however, of want of acquaintance with the nature of one of the most remarkable and ancient titles of honour known in England, will best account for the ignorance of those writers as to this class of the Irish Baronage; and it may be sufficient to observe that by charters, patents, inquisitions and entries on the public rolls, it does appear the Barons above-named who were excluded from Parliament, or gave up their parliamentary privilege after the reign of Edward the Third, had previously ranked amongst the most ancient and perhaps most potent Peers of English descent in the kingdom.

CHAPTER VII.

SPIRITUAL PEERS.

THE estates of Bishops and Abbots were formerly discharged from all secular services in England, excepting only as to the *expeditio contra hostem* and the *pontium et arcium contractio et reparatio*. But soon after the Norman invasion those estates were charged with the same obligations of Military service as they should have rendered if possessed by laymen. In consequence of this alteration, it is said the Bishops became tenants *in capite per Baroniam*, and were bound to attend the *Curia Regis*. This alteration, which is given on the authority of some ancient writers, was confirmed and enforced within one hundred years after the Conquest by the Constitutions of Clarendon, wherein the following enactment may be found:—

“*Archiepiscopi, Episcopi, et universi Personæ Regni qui de Rege tenent in capite, habeant possessiones suas de Rege, sicut Baroniam; et inde respondeant Justiciariis et Ministris Regis: et sequantur et faciant omnes consuetudines Regias; ET SICUT CÆTERI BARONES DEBENT INTER-ESSE JUDICIIS CURIÆ DOMINI REGIS CUM BARONIBUS usque perveniatur in judicio ad diminutionem membrorum vel mortem.*”

As the above had been the law of England for some years before King Henry the Second went to Ireland, the principle thereby enforced was soon introduced with the other laws and institutions into that country. Of this, one instance, namely, the See of Dublin, will suffice here as an illustration.

On King Henry's arrival he found the see of Dublin filled

by Laurence O'Toole, who, like the other prelates of Ireland and the Saxon hierarchy before the Conquest, enjoyed in right of his see none of those feudal and baronial rights with which the Norman policy had clothed the English hierarchy.

The Prelate of Dublin is mentioned by foreign and domestic historians as a man of eminent virtue, and above all as an ardent lover of his country; but his patriotic intercession and exertions at length brought on him the resentment of King Henry, and under that Monarch's order of banishment he died an exile in Normandy about the year 1181. On this the King immediately bestowed the Archbishoprick on John Comyn, one of his English subjects, who, proceeding to Ireland, had the Archiepiscopal estates granted to him in *barony*, with power of holding courts, &c.; by which means he and his successors holding their possessions by that tenure, became bound to attend the *Curia Regis*, and were vested with the dignity of Parliamentary Barons. This appears by the charter of John to the new Archbishop and his successors, in which are the following words:—

“Terram de Coillachter cum omnibus suis pertinentiis
“pro 20 libratis terræ quas ei IN BARONIAM dederam et
“carta mea confirmaveram.”

Black
Book,
Archdio.
Dub.

And in a subsequent charter to the same Archbishop the grant of his see estates by the tenure of *barony* is thus alluded to:—

“And for this grant and for the land of Coillach, which I
“granted to him in *barony*, the same Archbishop gave me
“sixty marks of silver.”

This latter charter was followed by others granting to the Archbishop all liberties and free customs, and that he should have a court, and have justice of all his men through Ireland, as well within cities as in exterior lands, &c.

Black
Book,
Archdio.
Dub.

In the fifteenth year of his reign, King John confirmed all the above grants to Archbishop Comyn's successor Henry de Loundres, and particularly that of the land of Coillach, with all its appurtenances, which the King had granted and by his charter confirmed to him in *baroniam*, &c.; with this reservation, however, that on the King's going into Ireland

Charter
Roll, T.L.
15 John.

he might resume those lands from the Archbishop on assigning him others in a safe and fit place.

Chief
Rememb.
Roll, Dub.
36 H. 8.

Black
Book,
Archdio.
Dub.

Chain
Book,
Town
Clk's Off.
Dub.

Under such grants the rights of the see of Dublin became completely altered, and thenceforward the Archbishops had voice and seats in all parliaments and great councils; they also held courts by their seneschals or other officers, through all their lordships and manors of St. Sepulchre's, Swords, Finglas, &c. and enjoyed sok and sak, toll and them, infangthef, outfangthef, all pleas of the Crown save four; the return of writs, assize of bread, of wine, ale, view of frank pledge, with liberty of pillory, tumbrel and thewe, &c. Like the other feudal lords, we find likewise that they established boroughs or corporate towns, with certain privileges and free commonage, &c. in particular parts of their seignories. They had their coroners, their *natives* and *villeins*, &c.; and even the Archbishop's *clerks and men* residing in and about the city of Dublin, enjoyed peculiar privileges; but it was at the same time provided, under penalty of fine or imprisonment, that the citizens should not sue in the court of the Archbishop or of his officers, where redress might be obtained in the court of the city.

The Archbishops of Dublin continued to be Lords of Parliament in right of the barony of Coillach; and although within the last century the authority of those baronial and other courts has been considerably restrained, and *peculiar jurisdictions* in general much discountenanced, yet the courts of the Archbishop are still preserved under some restrictions to the present day.

In a similar manner might be traced the origin of the other Spiritual Peers of Parliament, whether Archbishops, Bishops, Priors or Abbots. Many of their ancient charters yet exist; and besides the *infangthef* and *outfangthef*, *hamsok*, *gridebrith*, *blodewithe*, *fithwite*, they will be found to contain various other curious rights and privileges of the most ancient description.

MISCELLANEOUS NOTES.—In the reign of Henry the Fifth it was declared that “*all Archbishops, Bishops, Abbots, Priors, and all Clerks* who hold by the tenure of an *Earldom*

or entire Barony, ought to be summoned and come to Parliament ;” and little or no change has been made since that period, as the Spiritual Peers still continue to be Barons purely by Tenure.

Exemplif.
of Modus
Tenendi
Parliam.
6 H. 5.

A few observations as to the Spiritual Peers must be added. In all cases of vacancy, the person appointed by the Crown to be the custos of the spiritualities was regularly summoned to Parliament for such vacant see or house.

The fine generally imposed on Archbishops for absence from Parliament was £100; on Bishops 100 marks: but the fine on Abbots and Priors seems not to have been fixed in its amount.

The power of sending proxies was exercised so early as 1295, when the Archbishop of Armagh and others sent their “procuratores seu attornatos.” This right however was not always acknowledged, as appears by the summons of the 48th Edw. III. when the Archbishop was commanded to attend in person, “et non per procuratorem.” In two years after, the Bishop of Cork was fined, though he sent a proxy; and in the reign of Henry the Sixth, the Bishop of Ferns paid five marks to the King for accepting proxies in his name and place in Parliament.

Chief Re-
memb.
Roll, Dub.
3 R. 2,
24 H. 6.

In the preamble of several early statutes passed in Ireland, there are certain words used with reference to the Spiritual Peers; thus—in the acts of 1295 it is said of them, “quorum presentia videtur ad hoc esse necessaria.” In the statute 25th Edw. III. it is said, “*de assensu Prelatorum quatenus de jure hiis consentiri poterunt.*” In the statute of Kilkenny it is expressed as to the Prelates, “*de ceo que appertient a eux d’assentir,*” &c.; and these expressions seem owing to their unwillingness, or incompetency, to be present where capital punishments were enacted, under that clause in the Constitutions of Clarendon which bound them to attend the King’s court with the other Barons, “*usque perveniatur in judicio ad diminutionem membrorum vel mortem.*”

There was in Ireland an ancient custom by which the Archbishops and Bishops, on their appointment or creation, were forced to pay an annual pension to the first clergyman

Statute
Roll,
Chanc.
Dub.
3 E. 4.

nominated for that purpose by the Crown, until such time as the clerk obtained a benefice: this seems to have been part of the King's prerogative, and was frequently exercised from a very early date; but in the reign of Edward the Fourth, William Sherwood, Bishop of Meath, refused compliance after his promotion to that diocese, and a statute was passed in consequence, whereby it was enacted that the clerk so nominated by the King should be able to levy his yearly pension out of the revenues of the see of Meath.

One of the Spiritual Peers of Ireland seems to have formerly exercised the privileges of a Peer of the Parliament of England: this prelate was Henry de Loundres, Archbishop of Dublin, who is named as one of those Lords present at the execution of King John's deed to the see of Rome: he was also present when John did homage to Pandolf, and was the only prelate who reprobated the insolence of the Legate at Runningmede: the Archbishop of Dublin was amongst the few lords who still adhered to the King and assisted in his councils: and in Magna Charta he is specially named as one of the prelates and barons by whose counsel that charter is alleged to have been granted. Afterwards, with the other prelates he joined in a protest as to one clause in the charter relative to forests, and in a declaration of the real intention of both parties. With the English prelates he also protested against the refusal of the Barons to certify their submission and allegiance under their seals in writing; and his name is otherwise not unfrequently mentioned in records as an important member of the public councils during the reigns of King John and Henry the Third. Now, as to the right in which Archbishop Henry was summoned and sat in such assemblies, no reasonable conjecture has hitherto been made, and under such circumstances the following is offered. It appears that Hugh Hussey, ancestor of the barons of Galtrim in Ireland, was seised of considerable estates in Staffordshire, and being so seised, he by charter granted the lordship or manor of Pencriz with the fair there, the towns of Cungegrave, Beffecot, &c. to the Archbishop of Dublin and his successors for ever. This grant was afterwards confirmed by the

charters of King John and of King Henry the Third, who added thereto the advowson of the church of Pencriz; and under all those grants Henry de Loundres, the prelate above named, enjoyed Pencriz during his life, and may have received his writs of summons in right of that estate. His successors continued to possess this property, and it was not wholly lost to the see of Dublin in the reign of King William, as in the year 1698 William Bishop of Coventry and Lichfield applied by letter to the then Archbishop respecting the "*peculiar of Penkrige in Staffordshire*," which his Lordship says had not been visited by any of the Archbishops of Dublin since 1660; and wherefore he prayed the permission of his Grace to make a visitation of it in his the Archbishop's name and authority. This was accordingly complied with, and the usual commission passed the Consistorial Seal on the 9th June 1698, empowering the Bishop of Coventry and Lichfield to visit for his Grace his "*peculiarem jurisdictionem de Penkrige*." Thus we have the grants to the Archbishop of Dublin, with clear proof that possession followed such grants particularly in the time of Archbishop de Loundres: and when we consider the zeal and fidelity exhibited by that prelate to the Royal cause, it is not unreasonable to presume that the Crown availed itself of his tenure of Penkrige, whatever may have been the extent of that estate, and in such right obtained his attendance and service.

In proceedings against Thomas Creeffe, Vicar of Stabanon, for non-residence, it was pleaded that he was chaplain to the Archbishop of Armagh; and the court held that an Archbishop ought to have eight or ten beneficed chaplains to attend about his person.

Chief Rememb.
Roll, Dub.
1 & 2 E. 6.

In another case of an information against one of the dignitaries of St. Patrick's Cathedral for non-residence on his benefices elsewhere, a charter of Henry the Eighth was pleaded, whereby the Dean, Canons, Ministers and Prebendaries of that cathedral, while [residing, dwelling, or inhabiting within the precincts thereof, and keeping a curate on their benefices, were exempted from residence.

Chief Rememb.
Roll, Dub.
4, 5, 6
Philip and Mary.

The prelates were strictly obliged to observe the statute of

Chief Rememb.
Roll, Dub.
24, 25,
26 Eliz.

Ancient
Rent-rolls
and Lists
of Clergy,
Dublin
Castle.

Chief Rememb.
Roll, Dub.
35 E. 1.

12th Elizabeth for the maintenance of free schools, according “to the quantitie and qualitie of the dioces,” the Bishop paying one-third, and his clergy the other two-thirds. In Limerick, in the year 1583, Queen Elizabeth, hearing that this act was “so slenderlie or not at all executed,” empowered the Mayor of Limerick to sequester yearly, and from time to time, so much of the livings, tithes, &c. as belonged to the Bishop and clergy of the diocese.

The prelates of Ireland were deprived of their seats in Parliament during the Usurpation, and their extensive estates were set or sold under the orders of the Commonwealth. This extraordinary measure was followed by a general confiscation of all the tithes and glebes belonging to the parochial clergy, which after being surveyed and valued were leased to the officers and soldiers of the Cromwellian army. The kingdom was then divided into districts, in each of which was appointed a clergyman of the prevailing religion, as also a schoolmaster, and these were paid a yearly salary according to the extent of the district committed to their charge. The number of persons then appointed was comparatively small; and their salaries averaging but from £30. to £80. per annum, left a large portion of the Church revenues which had been seized on, applicable to public purposes. After the Restoration, however, the clergy re-obtained their property, and the prelates regained their ancient rights as Peers of Parliament.

As scarcely any of the early statutes formerly of force in Ireland have been hitherto published, considerable doubts were entertained whether the statute of mortmain, which was so closely connected with the interests of the Spiritual Peers, was observed or took effect in that country; and those doubts were strengthened by a comparison of the Magna Charta of Ireland with that of England; but it requires only a slight acquaintance with the court rolls to be satisfied on this point.

The “statutum de religiosis” is entered with an accompanying King’s writ on an ancient roll of the Chief Remembrancer of Ireland; and like other statutes passed in England, which “covenables sount pur le poeple et la pees de la terre Dirlande,” after being examined, it was re-enacted and en-

forced there: thus when Richard Earl of Ulster was about erecting and endowing with forty librates of land a chantry for twenty-four chaplains in Loughrea, he was obliged to seek the King's licence for that purpose, and the King issued his writ of "*Ad quod damnum*," under which an inquisition was held, finding that it would not be to the King's damage if such a chantry were erected and endowed for the education of twenty-four boys, unless by diminishing the value of his wardships when minorities occur. In the following reign an information in the Exchequer sets forth that the predecessors of the Prior of the house of St. Michael had acquired lands in Lougher "*post statutum Domini Regis editum quod terræ et tenementa non devenirent ad mortuam manum*," the King's writ issued to enquire by inquisition, and if such were found to be true, then to take the said lands into the King's hands. In 1315 a writ of "*Ad quod damnum*" also issued respecting four acres near Dundalk; and an inquisition being held, it was found that the Prior of St. Leonard's having acquired those four acres from the burgesses of Dundalk, in free, pure and perpetual alms, without the licence of the Lord the King, after the publication of the statute "*De terris et tenementis ad manum mortuam non ponendis editi*," the escheator "*occasione predicta*" seised the same four acres into the King's hands, in which they now continue. By the Irish statute 13th Edw. II. the Statute of Westminster second, as it is called, which further provides remedies as to lands in mortmain, was by express words re-enacted in Ireland. In 1327, lands in Donaghmore were seised into the King's hands, because the Abbot of St. Thomas had acquired them contrary to the statute of mortmain. So also was the manor of Archers-town for a similar reason in 1353; and in the ninth of Edward the Third the King granted licence to John de Grauntsete, to endow a chapel in honour of the Virgin Mary, on the stone bridge of the city of Dublin, and to place there two chaplains to pray for the King, his wife Queen Philippa, and for the mayor and citizens of Dublin, the statute of mortmain notwithstanding. In 1414 Thomas Earl of Desmond sought for and obtained the King's licence to grant the ad-

Chief Rememb.
Roll, Dub.
33 E. 1.

Statute
13 E. 2.
In Chief Rememb.
Office, unpubl.

Chief Rememb.
Roll, Dub.
13, 14 Eliz.

Chancery
Roll, Dub.
2 H. 5.

vowson of the church of Dungarvan, which he held of the King in capite, to the Abbot and convent of Kentsham in England, the statute of mortmain notwithstanding. In short, during the fourteenth, fifteenth and sixteenth centuries, the court rolls contain numerous entries of Kings' licences to the same effect, and many entries of lands and tenements being seised into the King's hands in consequence of being acquired contrary to the statute of mortmain. It is observable that so early as the year 1300, in a case respecting the patronage of the bishoprick of Anaghdown, the Attorney General pleaded against the defendant the Archbishop of Tuam, that he the Archbishop "*non ostendit aliquod factum speciale de aliquo Papa vel Rege de unione prædicta.*" And in the year 1307, in a suit between Nicholas de Netterville against the Prior of Lanthony for the advowson of Dowth, the plaintiff pleaded that the said Prior and convent "*sunt religiosi et non possunt esse patroni alicujus Ecclesiæ sine aliquo titulo seu speciali facto,*" and therefore insisted they should shew such special deed, which was according done.

Red Book,
Chief Rememb.
Off. Dub.

There are in the Red Book of the Exchequer certain questions proposed by the Prelates and Clergy as to their jurisdiction, &c. with the answers of the King and his Justiciary to each: though much resembling the articles of the Clergy in England, yet by their reference to local customs and rights in particular dioceses, they seem wholly to relate to the Prelates and Clergy of Ireland, whose powers and jurisdiction at that period appear by this record to have been of the most extensive nature.

It is a circumstance not unfavourable to the memory of some of our former monarchs, that while the Spiritual Peerage had an high and commanding influence in the State, and possessed a numerical majority in the Parliament of Ireland, the statutes for the establishment of free schools, for the residence of the clergy, for the payment of first fruits and twentieth parts, &c. were rigorously enforced by the officers of the Crown. This is particularly remarkable during the reigns of Henry the Eighth, Edward the Sixth, and of Elizabeth, the court rolls in whose time abound with proceedings

instituted under such statutes. By Queen Elizabeth's order none of the clergy could obtain possession of their dignities or benefices until the Barons of her Exchequer were satisfied that they had discharged the claims of the Crown; and the strictness, if not rigour, with which some even of the smaller rights were enforced under that Queen, may be gathered from the following document, by which her Majesty's claims on the personal estate of the Primate of Ireland, then deceased, were discharged, in consideration of his having been "a goode and faithful councellore" of her "borde" of Privy Council.

Chief Rememb.
Roll, Dub.
7, 8, 9 Eliz.

Ch. Rem.
Roll, Dub.
31 E.

"By the Lo. Deputie and Counsaile:—William Fitz
"Willms. Whereas ANNE LONGE, WIDOW, LATE WIFE
"TO THE LO. PRIMATE DECEASED, hath by her petition
"declared unto us the poore estate she hath been lefte in
"with the chargde of children, servauntes and people with-
"oute anie thinge to releave them save thes small parcels
"contained in the scedull^r hereunto annexed, w^{ch} nevertheless
"weare seased, valued and praised to her Maties use to the
"value of £16. 9s. 4d. ster. towards her Highness's satisfac-
"cion of the twentieth part of the said dioces whereas with
"the said late Lo. Primate was to accompte, makinge humble
"suite unto us that we wolde vouchesafe to graunte unto her
"the remittal of the said some, so as thereby she maie for
"her reliefe have and enjoye the saide pcells so leased upon
"and valued without the impeachment or molestation of anie
"other; upon consideration of w^{ch} her poore estate, and in
"regarde that her saide late husbände was a goode and faith-
"ful councellore of this borde, wee are pleased and so by
"this our concordatum do conclude, condescend and agree,
"that hereby gevinge and grauntinge that unto the saide
"Ann Longe full and whole remittal of the saide som of
"£16. 9s. 4d. ster. she shall have and enjoye all and everie
"the said parcells of goods accordinge the praisement of the
"Shrive under his hande appearinge in the said schedull
"hereunto annexed, whereof wee will and require not onlie
"to take notice by due enrolement of thease p^rsents, but also
"by virtue hereof to geve unto hir and her suirties for the

“ same good and sufficient matter for their dischargd of the
 “ said some of £16. 9s. 4d. and for the saide goodes seased
 “ upon and valued to that price for her Ma^{ties} satisfaccon as
 “ aforesaid in respect of this remittall graunted unto her for
 “ the same. Yeoven at Drogheda the 15th of May 1589.

“ An Inventorie of the goodes of the late Lo. Primate,
 “ mowable and unmowable, taken at Termonfeighan
 “ the 19th daie of Januarie 1588, as followeth :—

“ In the haggard . . Item of wheate one ricke of ix
 feathem de.

Item of oates two rickes of ix
 feathem, about 40s. ster.

Item of pease one smale longe ricke,
 13s. 4d.

Item, one smale ricke of haie, 1s.

“ Sowen in the grounde Item of wheate 15 acres, £7. 10s.

Item of beare 3 acres, 20s.

“ Garrans and cows . Item of garrans 4, 20s.

Item of cowes 1, 10s.

“ And nether shepe nor other cattell.

“ Beddinge . . . Item, one fetherbedd, 2 flocke
 beddes, 10s.

Item, two canebies, 5s.

Item, four bedsteddes, 4s.

“ Brasse Item, one smale pott, one kettell, 5s.

“ Pewter Item of platters 8, saucers 4, 5s.

Item, two trounkes emptie, also
 bordes, formes and stooles, 5s.

“ HENRY MOORE.”

CHAPTER VII.

CREATION OF DIGNITIES BY CHARTERS OR PATENTS.

THE practice of conferring titles of honour by cincture, or of creating such by charters or letters patent from the Crown, obtained but slowly in Ireland, and the few instances which occur before the year 1500 would lead us to suppose that this mode of increasing the number of peers was not in much estimation amongst the ancient Feudal nobility.

The earliest record now remaining of the creation of a dignity in that country is contained in the grant of the Earldom of Ulster made to Hugh de Lacy by King John in the seventh year of his reign. Of this grant the following are the principal recitals or operative clauses :—

EARLDOM OF ULSTER.

I.—“ Johannes Dei gratia, &c. Sciatis nos dedisse et concessisse et hac carta nostra confirmasse *Hugoni de Lascy* *totam terram Ultoniæ* cum omnibus pertinentiis suis, DE QUA IPSUM CINXIMUS IN COMITEM : habendam et tenendam ei et heredibus suis de nobis et heredibus nostris adeo bene, libere, quiete et integre sicut *Johannes de Curcy* eam melius, liberior, quietius et integrius habuit et tenuit anno vel die quo idem Hugo ipsum Johannem vicit et cepit in campo, faciendo nobis de quolibet cantredo prædictæ terræ servitium feodi unius militis pro omni servicio : Salva nobis ordinatione Crociarum. Quare volo,” &c.

Charter
Roll, T. L.
7 John.

EARLDOM OF CARRICK.

Charter
Roll, T. I.
9 E. 2.

II.—The next creation of an earldom is that by King Edward the Second, on the 1st of September, in the 9th year of his reign, whereby the castle and manor of Karryk Makgrif-fyn, with the appurtenances, and the castle and manor of Roskre, with the appurtenances, and all knights' fees, advowsons of churches, and all other things to the same belonging, were granted to *Edmund le Botiller* and his heirs for ever, "*sub nomine et honore Comitibus de Karrik.*"

EARLDOM OF KILDARE.

Chief Re-
memb.
Roll, Dub.
19 H. 8.

III.—On the 14th of May following, the same King, by letters patent, granted to *John filius Thomæ* and his heirs male, the castle and town of *Kildare*, with the lands, rents, and other appurtenances, "*sub honore et nomine Comitibus de Kildare.*"

EARLDOM OF LOUTH.

Chief Re-
memb.
Roll, Dub.
22 H. 6.

IV.—On the 12th of May, in the twelfth year of King Edward the Second, the King, by letters patent, recites that he in his present Parliament at York had granted to John de Bermyngham and his heirs male £20. *annual rent* out of the issues of the county of *Louth*, "*sub nomine et honore Comitibus de Louth, ad festa Paschæ et Sancti Michaelis per equales portiones percipiendas, ipsumque Johannem in Comitem dicti comitatus de Louth prefecerimus.*" And now for the better support of the honour and name of Earl, his Majesty further grants him the residue of the issues of said county, with the whole county itself, and the office of Sheriff of the same, &c.

EARLDOM OF ORMOND.

V.—King Edward the Third, by his charter, dated the 2nd of November, in the second year of his reign, recites that Charter
Roll, T. L.
2 E. 3. Whereas we lately, “*personam dilecti consanguinei et fidelis nostri Jacobi le Botiller de Hibernia honorare volentes, de-*”
“*derimus ei nomen et honorem Comitis de Ormound in Hiber-*”
“*nia, ipsumque Comitem de Ormound præfecerimus et gladio*”
“*cinxerimus.*” And in contemplation of the premises, his Majesty now grants to the said James £10 annual rent, to hold to him and his heirs, “*sub nomine et honore Comitis de*”
“*Ormound,*” out of the fee farm of the city of Waterford.

EARLDOM OF DESMOND.

VI.—On the 27th of August, in the following year, the same King recites, that wishing, for his good services, to honour the person of *Maurice Fitz Thomas*, we gave to him Chief
Rememb.
Roll, Dub.
1, 2 E. 3. the *name and honour of Earl of Desmond* in Ireland; “*ip-*”
“*sumque in Comitem de Desmond præfecerimus et gladio*”
“*cinxerimus.*” and now considering the premises, the King grants and confirms to the said Earl all royal liberties, &c. within the county of Kerry, &c.

It is unnecessary to notice the creation charters of Robert de Vere, Earl of Oxford, in the reign of Richard the Second, as the titles of Marquis of Dublin and Duke of Ireland thereby conferred are held to have been English titles. On being Selden.
Cruise. appointed Lord Lieutenant of Ireland in 1387, Robert de Vere sent over “*John Stanley, Chevalier,*” as his deputy in that office, with *letters patent* appointing him deputy. This patent under the *great seal* of De Vere is enrolled, and commences thus:—“*Robert, Marquis of Dublin, Earl of Oxford,*”
“*and Chamberlain of England,* to all, &c. Know ye, that we,
“*fully confiding in the fidelity and circumspection of our*”
“*beloved John de Stanley, Chevalier, have appointed him*”
“*our Locum tenens,*” &c. “*In testimony of which, these*”
“*our letters we have caused to be made patent at our manor*”

Chief
Rememb.
Roll, Dub.
10 R. 2.

Parlia-
ment Roll
of Eng-
land,
9 R. 2.

“ of Kenington the 8th day of June.” After that period all the letters patent containing grants from the Crown and other public instruments commence, not in the name of King Richard the Second, but of this Robert Marquis of Dublin. All patents granting lands by *custodiam* were to have effect by express clause, “ from the 19th day of April in the ninth “ year of King Richard the Second, on which day the land “ and dominion of Ireland came to our hands by the gift of the “ said Lord the King :” and in the articles of agreement confirming the ancient annuity of eighty marks to M^cMorough, the native chieftain of Leinster, it is stated, that the said chieftain was admitted to the *peace of the Lord the King and of the Lord Marquis*, and was to enjoy the said annuity as long as he was faithful to the *said Lords the King and Marquis*, “ *dictos Dominos Regem et Marchionem*.” Such assumption of the royal dignity was never attempted by any of his predecessors or successors, and can only be accounted for by the extraordinary grants which this favourite obtained from the King.

EARLDOM OF WATERFORD, &c.

Chief
Rememb.
Roll, Dub.
25 H. 6.

VII.—The next creation patent is dated the 17th of July, in the 24th year of King Henry the Sixth, and thereby “ *John Earl of Salop and of Wexford*, Lord de Talbot of Furnival and le Straunge,” was created *Earl of Waterford and Baron of Dungarvan*, with all castles, lordships, honours, &c. baronies, &c. knights’ fees, advowsons of churches, &c. royal rights, wreck of the sea from Youghall to Waterford, &c.: to hold to him and the heirs male of his body by the service of being the *King’s Seneschal in Ireland*.

BARON OF TRIMBLESTON.

VIII.—The next patent of creation that occurs is one of considerable importance, as being the first grant of any description of Peerage conveying by express words the dignity of a *Baron of Parliament*. This patent is dated the 4th day of March, in the second year of Edward the Fourth, and

thereby the King ordained and constituted Robert Barnewall, Knight, for his good services to the King's father when in Ireland, "*ad essendum unum Baronum Parlamenti nostri infra terram nostram prædictam*:" to hold to him and the heirs male of his body lawfully begotten, and to be called by the name of "*Domini et Baronis de Trymleteston*," &c. and also that he the said Sir Robert should be one of his the King's Council within the said land during life, with the fee of £10 yearly during the same term, payable out of the fee farm of the Salmon Leap and Chapelizod, &c.

Patent
Roll, T. L.
2 E. 4.

It may be necessary to notice that Sir Robert had inherited a moiety of the ancient baronies of Naas and De Loundres in right of his wife Eliza, with the lordships of Trimbleston, Rathdown, &c. for which he obtained letters patent from King Henry the Sixth. His family also seems to have been of considerable rank in Ireland from an early period. Hugo de Berneville had a grant from King John of the lands of Drumnagh and Tirenure, in the valley of Dublin, in the year 1215; and after paying twenty ounces of gold to the same King for certain wardships and lands elsewhere, he died about the year 1221, leaving as his heir Reginald de Berneville, his brother, direct ancestor of the above Sir Robert. To this Sir Reginald King Henry accordingly directed possession of Drumnagh should be given; and afterwards issued instructions to the Lord Lieutenant, that as he was sending over to Ireland Sir Reginald de Berneville to dwell there in his service, he the Lord Lieutenant should give him possession of all his brother's estates. In the year 1227 the King also granted him fifteen librates of land in addition to the estates in Drumnagh, &c. which continued in his descendants for four centuries. From this Reginald descended Sir Wolfran Barnewall, who possessed the manor of Kilbrue and the advowson of the church of the same, in the county of Meath, and who by deed dated at Kilbrue, in the year 1348, vested his property in trustees for the use of himself and Eva his wife for life, with remainders to Edmond son of Edmond Barnewall, Nicholas son of John Barnewall, and others in tail male. His descendant, John Barnewall of

Chief Rememb.
Roll, Dub.
13, 15, 25
H. 6.

Pat. Roll,
T. L. 17 J.
Fine Roll,
T. L.
17, 18 J.

Close Roll,
T. L.
5 H. 3.

Close Roll,
T. L.
9 H. 3.

- Chief Rememb.
Roll, Dt b.
2 H. 5. Kilbrue, was father of Walter, on whose account, when a minor, the above settlement was enrolled in the year 1413. Sir Wolfran Barnewall had licence in the year 1435 to entail all his estates in Drumnagh, Terenure, Balrothery, &c. to his own use during life, and afterwards to the use of his sons, John, Reginald and Wolfran, with remainders to Robert, Henry and Christopher Barnewall, and their heirs male. This Robert was the Sir Robert Barnewall who was created Baron of Trimbleston, &c. as above mentioned.
- Chief Rememb.
Roll, Dub.
13 H. 6.

BARON OF PORTLESTER.

- Pat. Roll.
T. L.
2 E. 4. IX.—On the following day, viz. the 5th of March, in the second year of Edward the Fourth, the King by patent created Sir Rowland Fitz Eustace one of the *Lords and Barons of Parliament* within Ireland, to be called by the name of *Lord and Baron of Portlester*; and further granted to the said Sir Rowland, for the *honour and support* of his name, the manor of Portlester, to hold the said *name of Lord and Baron*, with the manor of Portlester, to him and the heirs male of his body lawfully begotten.

BARON OF RATOWTH.

- Pat. Roll,
Chanc.
Dublin.
8 E. 4. X.—By patent dated the 13th of August, in the year 1468, the King for his good services ordained, made and constituted his beloved and faithful servitor, *Robert Bold, Esquire*, one of the *Lords and Barons of all and every the Parliaments and Great Councils to be held in Ireland*: to hold the same with the *style, title, name, honour, place*, &c. to him and his heirs male. And as Philip Dominor, Esquire, had surrendered his annuity of twenty marks out of the King's manor and lordship of Ratowth, the King, "*ut ad exaltationem nominis sequatur augmentatio facultatum, cum semper honoribus onera sunt annexa*," grants to the said Robert the manor or lordship of *Ratowth*, with the *style, title, name and honour of Lord and Baron of Ratowth*; as also

the rents, &c. wardships, marriages and advantages to that manor or lordship in any manner belonging, with courts, &c.: to hold to him and his heirs male, rendering yearly a gos-hawke for all secular service.

BARON OF RATHWEIR.

XI.—By letters patent dated the 18th of June, in the year 1476, the same King recites, that on the 5th of August then last past, for the *good and laudable services which his beloved Thomas Daniel, Knight, Lord and Baron of Rathwire*, with great labour and expense rendered him in England and Ireland, he had granted to the same Thomas, as “*Thomas Daniel, Esquire*,” by letters patent, the lordships or manors of Salmon Leap, Chapelizod, Ardmulgan, Rathwire, Belgard, Foure and Castle Ricard, with all knights’ fees, advowsons of churches, wardships, marriages, reliefs, escheats, &c. to the same belonging, and which had come to the Crown by an act of resumption: to hold to the said Thomas and the heirs male of his body by fealty only. But that now the said Thomas having surrendered the said patent so as to get the same regranted to him in the *following form*, his Majesty therefore hereby gives and grants to the aforesaid “*Thomas Danyell, Knight, Lord and Baron of Rathwire*,” all the aforesaid lordships, which are again set forth in nearly similar words: to hold to him and the heirs male of his body by fealty only.

Patent
Roll, T. L.
16 E. 4.

It is conceived that the above Thomas Daniel was he who incurred the displeasure of the Parliament of England, as appears by the Parliament Rolls. Those very ample possessions contained in this grant were for the most part afterwards resumed by another statute of resumption, and the lordship of Rathwire again vested in the family of Darcy, whose members had enjoyed it from the reign of Edward the Second. This circumstance may account for the descendants of Sir Thomas Daniel not being found afterwards in the Parliamentary lists.

VISCOUNT OF GORMANSTOWN.

- XII.—The next patent is that dated the 7th of August 1478, whereby *Sir Robert Preston* was created *Viscount of Gormanstown*: to hold to him and the heirs male of his body. This Sir Robert had been already a Baron of Parliament, and the precedence of himself and his ancestors was regulated by two statutes, which amongst other things recited that they had been Lords of Parliament since the reign of Richard the Second, “il & sez auncestrez de temps de Richard jaditz Roy Dengleterre ount estez Seigneurs de Gormaneston & Barons del Parlement.” Mr. Selden, in discussing the origin of the dignity of Viscount, which had been introduced into England from France about twenty years previous to the foregoing patent, tells us that this dignity was created “by the deliverie of a rod of gold, and giving this title to a Baron or Banneret, or other great Gentleman that had three or four baronies, on every of which ten gentlemen at the least were depending.” And the above Sir Robert, who was the first Viscount created in Ireland, from his extensive possessions in different parts of the kingdom, seems to fall within this description. He was Baron of Kells, Lord of Gormanstown, Lord of Carbery, coheir to the Baronies of Naas and De Loundres, &c. But it is a singular circumstance, and not noticed by Mr. Selden or any other writer, that in a few months after King Henry the Sixth created the first Viscount in England, John Beaumont, the peer so created, petitioned his Majesty, setting forth:—
- “Forasmuch as it likes you to *put him to the state of Viscount, and for the servyce that he hath don and desireth to do you in tyme comyng, as wel as that of late ye have comaunded him to be called unto your counsel,*” and “as every sole of your counsail hath yearly £100, and every Baron one hundred marks assigned in certain places, that it like you to grant him, that he may serve you the more worthily in that estat that ye have liked to put him, and also for the said attendaunce about your counsel,” the sum of
- Statute
38 H. 6.
and
2 E. 4.
- Selden,
Titles of
Honour.
- Chief
Rememb.
Roll, Dub.
4 R. 2.
18 R. 2.
3 H. 4.
8 H. 5.
&c.
- Original
Order,
T. L.

£80 yearly during life. This the King accordingly ordered; and from such an application it may be inferred that the estate of the first English Viscount was not of the same ample description.

The above are the only documents expressly conferring titles of honour in Ireland before the year 1500; after which period the number of creations by patent considerably increased in each succeeding reign.

In the sixteenth century, when this mode of creation was coming into general use, instances occur of ancient baronies being granted by letters patent, with seats, &c. in Parliament, although the patentees and their ancestors had already, and long before, enjoyed them as Parliamentary baronies. This appears, however, to have been considered necessary, either, 1st. because those lordships had come to the Crown by forfeiture, though afterwards restored; or, 2ndly, in consequence of long-continued absence from Parliaments.

The Barony of Dunboyne, in the county of Meath, as well while possessed by Parvus, or Petit, as by his heir Le Butler, (in whose descendant it still exists,) was an ancient Parliamentary peerage, as appears by many positive proofs still on record. But William Butler, Baron of Dunboyne, was attainted, and the Crown, in the year 1460, granted the barony to Rowland Fitz Eustace and others in tail male as a forfeiture. Edmond Butler, however, the next heir male in remainder after the forfeiture, for valuable services rendered to the Crown, obtained the Barony of Dunboyne, with other grants from the King; and a statute was passed in the year 1472 for repealing all laws against him. He remained accordingly in possession until his death, and in all the royal instruments he is called "Lord and Baron of Dunboyne;" yet his grandson, Sir Edmund Butler, sued out and obtained a patent from King Henry the Eighth, regranting and confirming this barony to him and his heirs male for ever.

Pat. Roll,
T. L.
1 E. 4.

Statute
Roll, Dub.
11, 12 E. 4.

Pat. Roll,
Chan.
Dub.
32, 33 H. 8.

In the family of Poer, in the county of Waterford, was an ancient Barony, with Parliamentary dignity annexed, as appears by the writs of summons. No member of that family,

however, was summoned to Parliament from the year 1400, in consequence perhaps of the remoteness of their property and the general situation of the country, until the year 1536, when King Henry the Eighth, by letters patent dated the 13th of September, in the 27th year of his reign, for his services in the wars of Ireland, raised Sir Richard Power, Knight, the heir and representative of the family, *to the estate, degree, title, name and dignity of Baron de le Power and Coroghmore, in the county of Waterford*: to hold the same estate, degree, title, name and dignity, to him and the heirs male of his body for ever, to be called the Barons De le Power and Coroghmore, with place and seat in the parliaments and councils held within Ireland amongst the other Barons.

This patent, it should be observed, is not found amongst the enrolments in Ireland of the reign of Henry the Eighth, but an ancient copy of it is preserved amongst the Sloane MSS. in the British Museum: and we find in the Parliament held in six years after the date of this patent, that the Baron of Coroghmore took his seat and ranked next above the Baron of Dunboyne, whose patent was, by a few years, of later date.

In a similar manner to that branch of the Desmond family who enjoyed the ancient Parliamentary Barony of the Decies, but who had not attended parliaments for more than a century, on the 27th of January in the year 1569, letters patent were passed creating the heir and representative of the family, Sir Maurice Fitz Gerald, Baron of Dromana, to hold to him and the heirs of his body, with seat and place in all parliaments, &c. It should be noticed that Dromana, where still the mansion stands, had become the residence of the Lords of the Decies after surrendering the castle of Dungarvan to the Crown. In four days after obtaining the above patent, the said Maurice, Baron of Dromana, was by new letters patent elevated to the higher *degree, dignity, honour, &c. of Viscount of the Dessies*: to hold the same with *seat and voice in all parliaments, &c.* to the said Lord Maurice and the heirs of his body. Neither of those patents has been enrolled, but the Author examined the originals under seal remaining amongst the title-deeds of H. Villiers Stuart, Esquire, M.P., who, as heir

of the Barons and Viscount of the Dessies, is now in possession of those ancient lordships.

Before concluding the present chapter, it may be well to advert to some grants of Dignities which appear to have been made in Ireland to the native Chieftains. Those creations are worthy of particular notice as only conferring such dignities *during life*, and this curious distinction between the patents granted to them and to the English nobles already treated of may be attributed to the following causes. According to the ancient laws and usages in force in the districts occupied by the native Irish, neither estates nor dignities descended hereditarily as regulated by the laws of England, but devolved on the nearest male relative of the deceased or person last seised, provided such relative were the eldest, strongest and worthiest of his kindred in the opinion of the whole sept: and the sept thus having the right of approval, exercised a certain elective privilege in the right of succession to those chieftainries and estates. This law of the natives is strikingly exemplified in the memoir or descent of the Princes of Brefny, lately compiled from the family registry and other ancient Irish manuscripts by Mr. O'Reilly, wherein it appears that of thirty-one chieftains or princes who ruled over that country and sept from the year 1160 to 1635, the greater number had inherited not according to the laws of primogeniture, but by the election of the tribe or family. The principle is noticed by the best writers on the laws and customs of the ancient Irish; and its existence may be also traced in some legal records. By an authentic document it appears, that on the 4th of August 1455, Eugene O'Neill, Prince of Ulster, seeing himself grown destitute of strength, resigned his dignity and principality, that another might be elected to rule and govern in his place; whereupon his *eldest-born son Henry was elected as captain and principal of his nation*, and received institution as to his temporal dominion from the Lord Primate of Armagh, who deeming him a good and useful man for his church and the people of Ulster, ratified *his election as the Oneil captain and chief of his nation*, in the presence of all the clergy and laity in great multitudes assembled, without con-

Mey's
Registry,
Armagh.

Chief Rememb.
Roll, Dub.
34 to 45
Eliz.

tradiction. The same law also prevailed amongst those chieftains down to the end of the reign of Queen Elizabeth; and when the Crown at that period sued for certain estates in the county of Cork withheld from its patentee, the defendant pleaded that he was seised thereof in fee according to a certain custom there from time immemorial used, viz. that when any one died seised in his demesne as of fee of any lands, &c. the same immediately descended *to that other man sprung from the same stirp, kindred, family and name, who at the time of the deceased's death was the eldest, best, and most worthy of his stirp, family and surname.* In consequence of this law, there was no certainty that the estates and rank of the chieftain would descend to his issue; and hence the Crown, with a view to the fit and proper support of its dignities, could only ennoble those chieftains during life.

Patent
Roll,
Chanc.
Dub.
1 Mary.

On the 8th of February, in the first year of Philip and Mary, *Charles M^c Art Kavanagh*, hereditary chieftain of Leinster, was by letters patent created *Baron of Ballyane* and captain of all his kindred, to hold the same with seat and place in all parliaments and councils as Baron of Ballyane, like all other Barons of Ireland, during his life.

Though in the above patent it is stated that *Maurice Kavanaghe* should be next after him as *Baron of Cowleryene*, yet on the death of this Charles M^c Art we find another patent dated the 17th of May in the second and third of Philip and Mary's reign, by which his son *Dermot M^c Cahir Kavanaghe*, who had succeeded him in the chieftainry, was created *Baron of Ballyane*, to be held in a similar manner by him for life. In the following reign, however, almost all the members of that family accepted grants of their ancient inheritance from the Crown, to be held according to the English laws and tenures; and the descendant of the above Barons of Ballyane is the present Thomas Kavanagh of Borris, Esq.M.P. who is now possessed of the greater part of those chieftains' ancient estates.

MISCELLANEOUS NOTES.—Creations of titles of honour by patent came into general practice at the commencement of the seventeenth century, previous to which period such creations seem to have been but cautiously used.

By an inspection of records in different departments, the following calculations as to the number of titles thus created in Ireland will be found sufficiently accurate for general purposes. By the House of Tudor there were about one hundred and twenty-seven titles created, being little more than one creation in each year, on an average of one hundred and seventeen years. By the House of Stuart, under whom the native families as well as the Anglo-Irish were admitted to or accepted the privileges and favours of the state, there were three hundred and seventy-four titles created, being more than four titles yearly, on an average of eighty-five years. From the Revolution to the year 1760, about four hundred and thirty peerages were conferred, or on an average of seventy years upwards of six titles were created yearly. This last average was of exceeding magnitude, considering that at that period three-fourths of the entire population were excluded not only from the favours of the state, but from the ordinary liberties and privileges of the constitution.

During the fifteenth, sixteenth, and (part of the) seventeenth centuries, so strongly did the opinion prevail, that estates, fees or rents were a necessary qualification for the enjoyment of Dignities, that we find in most patents of creation grants either of estates or of certain sums payable out of the customs or out of the issues of particular places expressly for support of such peerages: in the latter case, the sum granted is called the "*feodum sive annualem redditum*," and those fees or annual rents were regularly paid to the peers by the Crown until about the time of the Revolution, or perhaps until even a later period.

Some ancient patents of creation contain special remainders, several of which are not mentioned by former writers: thus amongst the Barons we find special remainders in the patents ennobling the respective families of Hamilton (son of the Earl of Abercorne), Digby of Coleshill in Warwickshire, Caulfield, Boyle, Annesley, &c. In the Viscounts' patents there will be found remainders over in the dignities to the families of St. John of Lydiard in Wiltshire, Villiers, Annesley, Power, Boyle, M^cCarty, Bourke of Clanmaurice, Clotworthy,

Skeffington, Dungan, Berkeley or Fitz Harding, and Aungier. Amongst the Earls' patents there are some to be seen which create remainders to the use of branches of the families of O'Neile, O'Brien, O'Donnell, Fielding, Brabazon, Butler, Aungier, Talbot, Dungan, &c. In a country where so many extinctions are supposed to have taken place, and where there have been such numerous attainders amongst the nobles, these remainders must be of considerable importance, for the most obvious reasons. One circumstance must also be noticed as to the creation patents granted to different members of the Boyle family; namely, that in several of the patents the honours granted are limited to the patentee or person then ennobled, and the heirs male of his body, with remainder to the *heirs male of the body of his father*, and in default thereof with reversion of the honours to the *right heirs male of such father*.

CHAPTER VIII.

PECULIARITY IN THE DESCENT OF THE FEUDAL
BARONIES OF IRELAND.

IT is a remarkable circumstance that the ancient Baronies of Ireland have been almost universally enjoyed by persons of the *surname* and *blood* of the first founder, or of the first baron appearing on record in possession of the dignity; while the Baronies of England have for some centuries at least been enjoyed by different families of various surnames. Thus, in the former country, from time immemorial, the Barony of Ophaley has been represented by members of the Fitzgerald family; the Barony of Buttevant, or Barrymore, by members of the De Barry family; the Barony of Slane, by members of the Le Fleming family; the Barony of Kingsale, by members of the De Courcy family, &c. all being of the surname and blood of the first founders. In England, on the contrary, the Barony of De Roos of Hamlake has been represented by members of the several families of De Roos, Manners, Cecil, Villiers, and Fitzgerald; and the other ancient baronies of that country will be found to have been enjoyed in a similar manner by various families into which those dignities descended through heirs female in the line of representation.

It was at first conceived that this peculiarity arose from some limitations in the original grants of such lordships from the Crown; but on close enquiry it was found that such charters or grants made in the reign of Henry the Second and of his sons, as can now be traced, in no instance contain such special limitations;—they appear to have been all drawn in the form and language then used in similar instruments executed in England, and invariably conveyed those territories to the

grantees and *their heirs*, or to the grantees *hereditarily*, or to be held by them in *fee* and *heirship*.

It was next thought that in the descent of those baronies there might possibly have been a continuance of heirs male in the direct line: and this supposition, though improbable and contrary to the calculations made as to the occurrence of heirs general in families, induced a more minute enquiry into the descent of several of the dignities, as the same appeared on public record: the result however proved to be, that from time to time there had been a default of heirs male in the direct line in almost all those dignities—that daughters, sisters, and other heirs general had so frequently occurred as five several times within four centuries in some of those dignities; but that those heirs general took nothing by such default of heirs male in the direct line, as invariably the title of honour devolved on and was next enjoyed by some person of the blood and surname of the original founder.

With a view to explain this peculiarity by some principle known to the law of Dignities in England, it was afterwards supposed that the frequent succession of heirs male, however distant, to the title of honour, in preference to heirs general more nearly allied to the baron last seised, was owing to new creations under new writs of Parliamentary summons issued by the King to the next heir male. This certainly would at once solve the difficulty, and might establish an *usage in favour of heirs male*, particularly where so many instances of such occur in several families in the course of about ten generations; but at the same time it would lead to an inconvenience, inasmuch as we should thereby assume that there are now perhaps more than one hundred Baronies abeyant and claimable in Ireland; and to an inconsistency, as we should also assume that, in more than an hundred instances, the Crown passed over the rights of sisters, daughters, and other coheirs, which would be wholly irreconcilable with the law of Dignities in England. On duly considering, however, the principle and effects of writs of summons in Ireland, it appeared, as has been already shewn, that no writ or succession of writs, with the consequent sittings, ever effected the creation

See Ch. V.

of a Parliamentary Peerage in Ireland; and thus we are freed from so many abeyant baronies and such a number of coheirs whose non-claim or quiescence would otherwise appear unaccountable during more than three hundred years.

While making those enquiries, various documents occurred, shewing the great weight formerly attached to Tenure; and it was clear from the "*Modus tenendi*" that even in the reign of Henry the Fifth it was solely in right of the seigniories which they held that the Feudal Peers enjoyed Parliamentary dignities: in consequence it was thought that the principle of tenure might have prevailed down to a more recent period in Ireland, and that by that principle the present peculiarity might be ultimately explained. A new investigation was therefore commenced, extending not only to the descent of several of those dignities to the different peers who successively enjoyed them, but also to the descent and all acts, whether by the Crown or by individuals, affecting the seigniories or estates out of which those titles of honour arose. The latter part of this enquiry was attended with considerable trouble and labour, from the number and size of the Chief Remembrancer's rolls, on which only the former history of landed estates can be properly traced; but the result was so satisfactory as fully to compensate for the time and labour expended.

On completing this new investigation it appeared, that from a very remote period the Feudal Seigniories in Ireland to which were incident Parliamentary dignities, had been with consent of the Crown alienated to trustees, settled, entailed, and otherwise disposed of by the deeds, feoffments, &c. of the various lords in possession, according to the respective estates or interests which they had inherited therein; that they had been constantly subjected to the operation of fines and recoveries; that in the settlements so made, those seigniories were invariably limited to the heirs male of the settlor, of his brothers, father, grandfather, and other direct ancestors, all of the blood and surname of the first founder or first person appearing on record to be seised of the seigniory; that the estates always went according to the limitations thus created; and that without exception, whoever derived under such

settlements immediately became vested with the Parliamentary dignity, without any act of the Crown save the acceptance of homage, and was immediately so received and styled by the King, his Judge and officers, as well as by the Lords Temporal and Spiritual in Parliament; that numerous cases occurred, particularly after the year 1400, where the baron dying last seised left daughters, sisters and other coheirs, amongst whom in no instance did the dignity ever fall into abeyance, but, on the contrary, such dignity travelled over with the estates to the next heir male, however more remote in consanguinity from the baron last seised; that in such cases of a distant heir male inheriting to the exclusion of daughters, sisters, &c. the writ of parliamentary summons next issued did not operate as a new creation, as such heirs male took the seat and precedency in Parliament enjoyed by the first founder, and that too in the fifteenth century, when the precedency of peers was watched with peculiar jealousy, and made the subject of parliamentary enactments; that this further appears by instances of remote heirs male who succeeded to the title, and who were styled Lord and Baron in the King's letters patent, and as Lord and Baron did homage in the Exchequer, and were there entered of record under that name by order of the King's Chancellor, Treasurer, and other Judges long before any Parliament had been called, or writs of summons issued for that purpose; that such practice prevailed with consent of the Crown, as appears from the many pardons of intrusion, licences of alienation, grants of livery, fines and respites of homage entered on the public rolls, as well as by some instances where the Crown gave its direct approbation to the principle; and that after the abolition of the Feudal system under Charles the Second, when Tenure began to fall into desuetude in Ireland, the King recognized the rights of the heir male, though remote, in preference to daughters and sisters then living: a remarkable case of which, where the "*Caput Baroniae*" and all other the family estates were lost, will be hereafter noticed as one proof that, however the practice originated, it was ultimately held to be the law and usage of Ireland.

Every position now laid down will be found fully borne out on investigating the descent of the lordships of Barrimore, Kinsale, Ophaley, Athenry, Lixnaw or Kerry, Slane, Gormanstown, Killeen, Howth, Dunboyne, and other the feudal peerages of Ireland. It may however be useful to adduce some one case more specially, whereby the principle may be illustrated, and positive proofs assigned for what has been just asserted. A sketch of the descent of the Barony of Slane therefore is annexed, not indeed that the case of that peerage furnishes more numerous instances of heirs general being passed over, or of distant heirs male succeeding in exclusion of the line of representation, but because, however copious his notes may be respecting other dignities, the Author was casually obliged to devote more time to the history of that barony, and has now before him, from the offices in London, Dublin, and elsewhere, perfect copies of all records necessary to elucidate the descent of that dignity.

It should be premised that though the Barony of Slane was originally part of the district which Henry the Second had granted to Hugh de Lacy, and was consequently held under him and his heirs as a subinfeudation by the family of Le Fleming, yet, agreeably to what has been stated in a preceding chapter, we find the Barons of Slane, like all other the feudal peers who derived under subinfeudations, accepting new grants from the Crown, and not only obedient to the King's writs of Military and Parliamentary summons, but suing and sued in the King's courts, and amenable to all the writs and judicial proceedings of the King's Judges and other officers. This continued to be the case for nearly four centuries, while Meath existed as a peculiar jurisdiction in Hugh de Lacy and his heirs; and after that period, when Meath came to the Crown by inheritance, and its liberty or jurisdiction was abolished, the only additional authority accruing to the Crown over Slane and the other baronies within that district was the wardship of those barons when under age, which seemed to be the principal right latterly enjoyed by the lords of the liberty. Those facts may be gathered from the public records which will be immediately cited, and are sufficient

in themselves to negative any supposition of Palatinate Baronies in Meath. Had Meath been such a palatinate as Chester, or others where the King's writs ran not, few of the following documents would be found on the King's records, and in consequence we should now be able to collect but little as to the pedigree or rights of the Lords le Fleming.

Chief Rememb.
Roll, Dub.
6, 7 E. 1.
Chief Rememb.
Roll, Dub.
3, 4 E. 2.

The genealogical sketch in p. 198 commences with Richard le Fleming, who was Baron of Slane in the year 1278, as appears by the Chief Remembrancer's rolls. His son, Baldwin le Fleming, succeeded as Baron, and was summoned to Parliament by the writ of the 3d Edw. II. Sir Simon succeeded his father, Lord Baldwin, and sat in Parliament, as is declared by an act passed in 1462; he died seised of the barony of Slane, leaving a son and heir, Sir Thomas le Fleming, Lord Baron of Slane, as is found by inquisition held in the 45th Edw. III. Lord Thomas, in the year 1417, was seised of the lordships of Slane, Culmullen, &c. in the county Meath; and these he alienated to trustees for the purposes of settlement. He also enjoyed the estates in Devonshire, which had belonged to his ancestors before their arrival in Ireland, and by deed, dated 20th of February in the same year, sealed with his seal of arms, he vested this English estate in trustees. On the 16th February 1412, the King by letters patent granted to him, as Thomas Flemmyng Baron of Slane, the power of holding a yearly fair and weekly market at his manor of Drumconragh, with the liberties of courts, toll, and free customs appertaining to the same, in like manner as the mayor and citizens of Dublin enjoyed their's. This grant, under which the fair is now held, is a convincing proof of the Crown's paramount authority within the territory of Meath, even while it was in possession of De Lacy's heirs as a peculiar jurisdiction. He signed the address to Henry the Fifth as one of the peers present at the great council held at Naas, with the Earl of Kildare, the Lord Gormanstown, and the Spiritual Peers; and dying in the year 1435, he left Katherine le Botiller his widow, for whom an assignment of dower was made by the King's escheator, in the third part of the manor of Slane, the entire hall, and the

Chief Rememb.
Roll, Dub.
5 H. 5.

Inq. T. L.
27 H. 6.

Registry
Armagh.

Ch. Rem.
Roll, Dub.
26 H. 6.

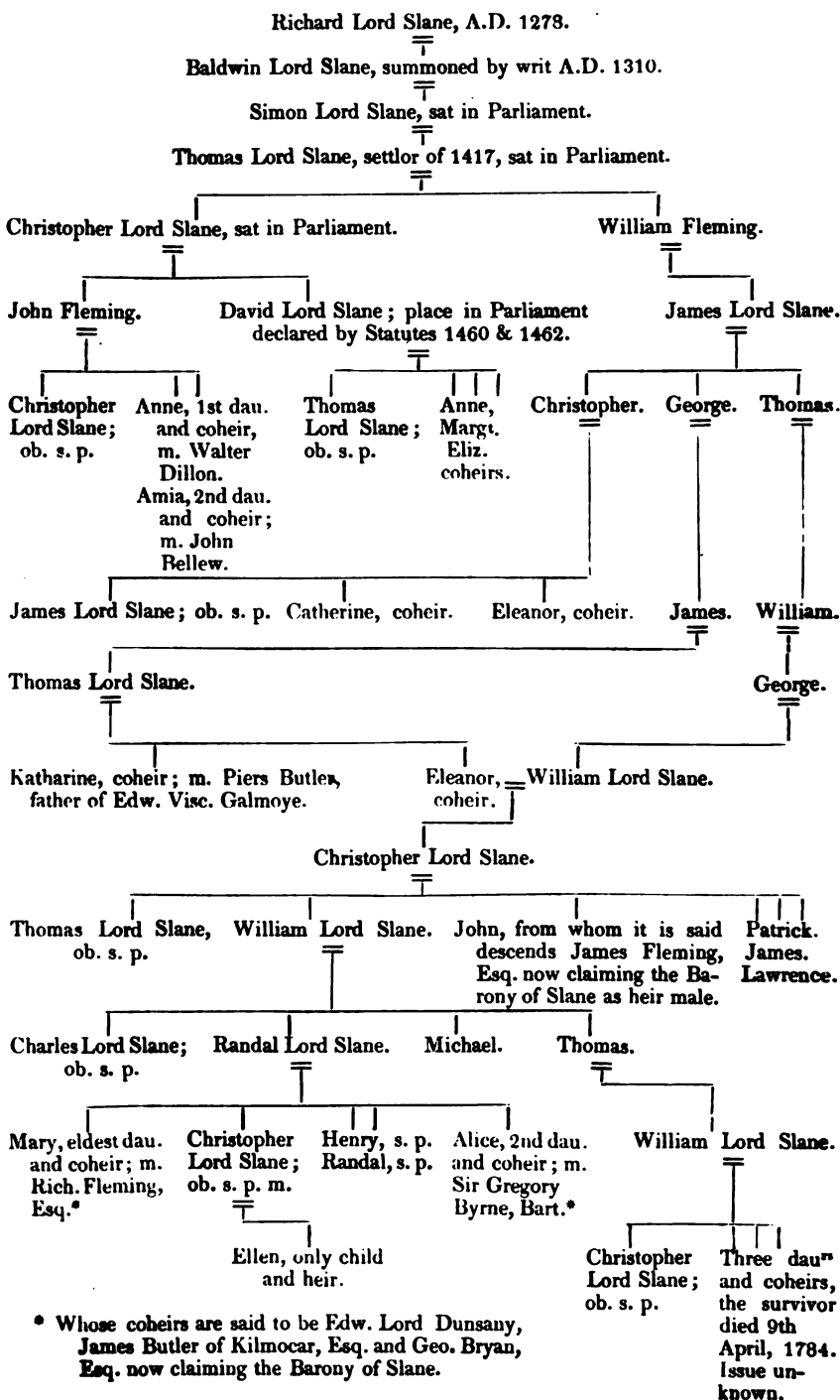
vaults under the hall, “le bakhous, le kechyn,” and the little barne, with the third part of the bawn, with free entry, &c. to the orchard, as also in the third part of the profits of the hundred court and customs there, 32s. 9d. Royal service issuing out of Stackallen, with the service and fealty of the free tenants, the third part of the services of all the burgesses of the corporation or town of Dundalk, also the kitchen, bakehouse and vaults of the castle within the manor of Culmullen, &c. Lord Thomas’s son and heir was Christopher Baron of Slane, who in 1423 obtained a dispensation from the Lord Primate to marry his noble kinswoman Elizabeth Wogan, and in 1437 did homage in the Exchequer for his paternal estates. He had also a grant by letters patent from the Crown, enabling him to summon all the inhabitants of his town of Drumcondra and barony of Slane to attend with necessary implements for the purpose of making a foss and building a fortress of stone for the protection of the town of Drumcondra, which had been so often burned and destroyed by the enemy, and which town, as the record expresses it, was the key to the county. In two years after, Lord Christopher was sued for being absent out of Ireland, and he pleaded that he was at London rendering his accounts for the estates he held in Devonshire, and had left sufficient force on his estates in Ireland for their defence. While in England, he made a settlement, on the 10th of April, 15th Hen. VI. in which he was joined by his son and heir, John, limiting the estates there to himself and the heirs male of his body, &c. He had two sons, John and David, by different wives: the elder of whom died before his father, leaving however a son and heir, Christopher, who became Lord Baron of Slane. This Lord Christopher is recited in a statute to have sat in the Parliament of 1451, and died without issue, leaving two sisters, Anne and Amia, both married; whereupon the estates “descendebant et resorteabant,” as the record expresses it, to his uncle, the above-named David, as next of kin and *heir male* of the same Lord Christopher his nephew.

Registry
Armagh.
Chief
Rememb.
Roll, Dub.
15 H. 6.

Chief
Rememb.
Rolls,
Dub.
13 H. 6.

Chief
Rememb.
Roll, Dub.
17 H. 6.

Inq. T. L.
27 H. 6.
3 E. 4.
11 E. 4.

Peculiarity in the Descent of the

Here we have the first instance in this family of a default of issue male in the direct line, and of the occurrence of heirs general in the persons of Anne and Amia daughters of Lord Christopher, the Baron last seised. Immediately after Lord Christopher's death, which happened in the 36th of Henry the Sixth, this David is styled Baron of Slane; and soon after, being sued in the Exchequer, he pleaded that his father Lord Christopher had before his death by *deed enfeoffed him, David*, in the lordship of Slane, &c. and for such feoffment his father obtained the King's letters patent dated the 34th of Henry the Sixth, which letters patent are therein recited. This is conclusive evidence of its being a Barony by Tenure; and we shall now notice a record, which further establishes that point, by shewing that there was no new creation in this instance of Lord David by the King's writ of summons or otherwise, but that he inherited the ancient barony of his ancestors, and in that right was allowed the seat and precedence which properly belonged to them. This record is a statute passed in the 38th of Henry the Sixth, which recites the petition of Sir Robert Preston, Lord of Gormanstown, setting forth that he and his ancestors, from the time of Richard the Second, were Lords of Gormanstown and Barons of Parliament, and had their place in parliaments and great councils, with pre-eminence there above the Barons of Slane, until the Parliament which was held before James Earl of Ormonde in the year 1451, when that Earl intending his dishonour, without deliberation or enquiry, but by threats, ordered Lord Gormanstown to take his place below Christopher then Baron of Slane;—that notwithstanding his Lordship's entreating the Earl not thus to proceed to the prejudice of his (Lord Gormanstown's) title against law and right, the Earl commanded him *in so terrible a manner* (en tiele fible mañe) that he obeyed through fear and compulsion only, first however making a due protest that he waived his right, and took that seat merely to *eschew the jeopardies and inconvenience* arising from the execution of such threats; and under such circumstances his Lordship now prayed that such sitting should not be taken thereafter to the hurt or prejudice of him

Ch. Rem.
Roll, Dub.
37 H. 6.

Ch. Rem.
Roll, Dub.
39 H. 6.

Statute
Roll, Dub.
38 H. 6.

Statute
Roll, Dub.
2 E. 4.

or his heirs, &c. Wherefore it was enacted that the said Lord Gormanstown in all parliaments and great councils should have the same place as his father and grandfather heretofore had, and that the aforesaid sitting by the Earl's compulsory orders, made in ill-will and not in equity or justice, should not hereafter be taken against Lord Gormanstown or his heirs, or made matter of record. This matter, however, did not end here. Lord Gormanstown again petitioned Parliament, and obtained another statute on the same subject. This statute, which was passed in a couple of years after that above cited, sets forth that by the foregoing act it was declared that Lord Gormanstown should have the same precedency as his father and grandfather; and further that it was lately known to divers persons of honour in the land, whose names are annexed, that Lord Gormanstown's father, Sir Christopher, sat in parliaments and great councils above Sir Christopher Fleming, Baron of Slane; that his grandfather, Sir Christopher Preston, sat above Sir Thomas Flemyng, then Baron of Slane; and that his great-grandfather, Sir Robert Preston, sat above Sir Simon Flemyng, then Baron of Slane; and that David Flemyng, Chevalier, now Baron of Slane, absented himself from parliaments and great councils, to the intent that the aforesaid persons of honour, &c. Wherefore the premises being considered and those persons examined, it was enacted, that the aforesaid Sir Robert Preston and his heirs, as Lords of Kells in Ossory, should have place in parliaments and great councils above David Fleming, now Baron of Slane, and his heirs, and all others the Barons of Slane, who hereafter may be. Those two statutes shew the extreme consequence attached to precedency amongst the peers, and furnish the strongest proof that David, on succeeding as uncle and heir male, inherited the ancient Barony enjoyed by his father, grandfather, and great-grandfather, who are named in one of those acts; that he was a Peer of Parliament in right solely of that Barony, and not by any new creation; and that consequently the dignity of Baron of Slane did not become abeyant between Anne and Amia, the daughters of the baron last seised. It cannot in this

case be presumed that those daughters were negligent of their rights, or that they had died without issue before the succession of Lord David to the dignity; as on the 13th of June in the 12th year of Edward the Fourth, the King issued his writ to the Escheator of Devonshire, in which his Majesty recites an inquisition whereby the descent of the children and grandchildren of the first Baron Christopher is found, as also the marriage of the daughters Anne and Amia to Walter Delune (Dillon) and John Bellew, and as it was further thereby found that by the death of Lord David and his son without issue, the English estates now descended under the settlement to Anne wife of Walter Dillon, and to Patrick Bellew, son of the other coheir, Amia, wife of John Bellew, the King's Escheator was therefore ordered to make a lawful partition of such estates in Devonshire, and to deliver the same to the said Anne, Walter, and Patrick, without delay, according to the law and custom of England. This record, which shews that they were alive, and seeking whatever they had been entitled to, is dated fourteen years after the succession of Lord David, and therefore no presumption of the above description can here be admitted. To revert to Lord David, however, it appears that he died on Wednesday next after the Feast of the Annunciation, in the 3d year of Edward the Fourth, leaving issue by his wife, Alicia Dyllon, one son, Thomas, aged ten years and nine months, and three daughters, Anne, Margaret, and Elizabeth. To this Thomas, while still a minor, livery of all his father's estates was granted by an Act of Parliament in the 10th year of the same King's reign; but he died on the 8th of December in the following year without issue, as was found by inquisition held in England, and recited in the King's writ to the Escheator of Devonshire. It may be necessary to add, that the extent of his estate in the lordships of Slane, Culmullen, &c. as declared soon after by two statutes, was an estate in fee tail.

CloseRoll,
T. L.
12 E. 4.

Inq. T. L.
3 E. 4.
11 E. 4.

CloseRoll,
T. L.
12 E. 4.

Here we find the second instance of a default of issue male in the direct line, and of the occurrence of heirs general not inheriting, in the persons of Anne, Margaret and Elizabeth, the last lord's sisters. On this occasion, instead of vesting

Statute
Roll,
11, 12 E. 4.

Statute
Roll, Dub.
12, 13 E. 4.

in such coheirs, the title and estates devolved on Sir James le Fleming, son of William, who was the second son of Thomas Lord Slane the settlor of 1417. To this Sir James licence was given to repair into England for the purpose of suing out livery immediately after the death of Lord Thomas; and on his return an Act of Parliament passed styling him "James Fleming, Esquire, Baron of Slane," and reciting that Thomas late Baron of Slane, son of David Baron of Slane, was seised in fee tail of the Granges near Culmullen, &c. and that on his death the right to all the same descended to the said James, as cousin and heir male of the said Thomas; whereupon it was enacted that the said Lord James might now enter into possession of the same without the impediment or interruption of any person. Another act was also passed as to the lordships of Slane, Newcastle, &c. declaring that the said Thomas the late lord was seised thereof, "en son demesne come en fee taille," and held the same of the King; that Alice, widow of Lord David, had dower thereout; that after the death of the said Thomas and Alice, all such estates came in remainder to the said James, as "cousine & heire male al dit Thomas;" and that the King had granted full livery thereof to Lord James by letters patent; wherefore it was enacted that the King's hands be removed from the same estates, and from all others in Ireland which ought to *revert, remain, or descend, or in any manner appertain to the said James*; and that he should now have, occupy, &c. all such as freely, largely, &c. as any of his ancestors, without impediment, impeachment, &c. of the King, his heirs, officers or ministers, any act, statute, ordinance, resumption, &c. heretofore made, notwithstanding; saving however the dower of Eleanor widow of Lord Thomas, &c. This statute, which seems to have been rendered necessary by a most general act of resumption then lately passed, clearly shews that the estates still remained under settlement, and were inherited by Lord James as next in remainder. His Lordship as "James Flemyng Baron of Slan," with the other Lords Spiritual and Temporal "in playne Parlement," signed the petition on behalf of Gerald Earl of Kildare to King Henry the Seventh, which petition com-

mences in the following words:—"Moost excellent Cristen
 "Kyng and our moost redoubted Leige Lord in the humblest
 "wise that ony subjetts kan or may we recomaund us unto
 "your moost Noble Grace, Please it the same that," &c.
 Lord James settled the lordships of Slane and Duleek on the
 heirs male of his body, with remainders over to the heirs
 male of the body of Robert Fleming, his brother, &c.; and
 dying, was succeeded by his son and heir, Lord Christopher,
 who accordingly inherited under that settlement, and sat in
 the Parliament held at Trim, in the 9th of Henry the Seventh,
 as Baron of Slane. In the reign of Henry the Eighth, Lord
 Christopher conveyed his estates to William Bishop of Meath
 and other trustees, and executed settlements thereof, confirm-
 ing the entails created by his father; viz. to hold such to the
 use of himself and Elizabeth his wife for life, remainder to the
 heirs male of his body, remainder to the heirs male of the
 body of his father, remainder to the heirs male of the body
 of his uncle John Fleming, remainder to the heirs male of
 the body of his uncle Robert, &c. He died in 1518, leaving
 James as his only son and heir, and two daughters, Catherine
 and Eleanor. James Baron of Slane sat in the Parliament
 of 1541, and as one of the Privy Council certified the pro-
 ceedings of that Parliament to the King in England. He
 was also present in the Parliament of the 2nd of Eliza-
 beth, and on the 2d of April 1568 settled the lordships of
 Slane, &c. on himself and Dame Ellis his wife for life, and to
 the heirs male of their bodies: remainder to the heirs male
 of his own body, remainder to Thomas Fleming of Stephens-
 town, son and heir of James Fleming, the son and heir of
 George Fleming late of Stephenstown (brother of the settlor's
 father), remainder to William Fleming, son and heir of George
 Fleming late of Derpatrick, gentleman, deceased, (grandson of
 the settlor's uncle Thomas,) in tail male, with divers remain-
 ders over of a similar nature, and confirmatory of the entails
 created by his father and grandfather. Lord James died
 without issue in the year 1577.

Inq. Chief
Rememb.
Off. Dub.

Chancery
Roll, Dub.
9 H. 7.

Inq. Chief
Rememb.
Off. Dub.

Records
State Pa-
per Off.
London.

Inq. Chan-
cery Dub.
40 Eliz.

Whereupon, for the third time, the estates and title of ho-
 nour devolved on a distant heir male, while the two sisters of

Inq. Chief the baron last seised, namely, Catherine and "Elyan," some
Rememb. of whose descendants still exist, were wholly passed over. The
Off. Dub. estates and title went immediately to the next remainder man
or heir male under the settlement of 1568, viz. to Thomas
Fleming of Stephenstown, who is specially named, as has been
already shewn, in that settlement. We accordingly find this
Lord Thomas had a grant of livery of his estates from the
Crown by letters patent soon after the death of the last lord,
and his Lordship is named among the peers summoned to the
Parliament of 1585. Thomas Baron of Slane died on the
9th of November 1597, without heirs male of his body, leav-
ing two daughters legitimately begotten, viz. Eleanor and
Catherine, both married, as is found by inquisition held at
Atherdee in the 40th year of Elizabeth.

Here now occurs the fourth instance of the title and estates
having passed by heirs general, namely, Catherine and Elea-
nor, the daughters of the baron last seised, and devolving on
the next heir male in remainder under the settlement of
1568. Those two daughters, it should be observed, are said
in the inquisition last cited to have been then married; and
particularly it is thereby found that Catherine was married
to Peter Butler of the Old Abbey, in the county of Kil-
kenny. This Peter Butler was father of Edward, on whom
King Charles conferred the Viscounty of Galmoye; and on his
descendant Garret of Garrendeny Castle lately claiming that
dignity, and establishing his descent from Edward the first
viscount, it appeared that the Galmoye family never sought
nor considered themselves entitled to any coheirship in the
Barony of Slane, which, had writs of summons possessed a
creative effect in Ireland, they must have been entitled to.
But in reverting to the accession of the next heir male after
the death of the above Lord Thomas, a more remarkable cir-
cumstance must be noticed. This circumstance is, that Lord
Thomas died on the 9th of November; and on the 9th of
February following an inquisition was held to ascertain of
what estates he died seised, when he died, who was his next
heir, &c.; and in this inquisition it is expressly stated by the
officers of the Crown before whom it was held, that "Thomas

Lord Baron of Slane died on the 9th day of November, in the year of our Lord 1597, without any heir male of his body, and that all and singular the estates, &c. of which he was seised have, in *virtue of the deed* (of settlement therein set forth) aforesaid, *descended in remainder* to WILLIAM NOW LORD BARON OF SLANE." Now no Parliament had been called in Ireland from 1585 until many years after this Lord William's accession, and consequently he did not acquire by any writ of summons or sittings in Parliament the dignity and title of Lord Baron of Slane, which he is found by the inquisition to be already possessed of. It should be also added, that the first legal notice the Crown had of the death of any peer, and of the accession of his successor, was the return to the "Inquisitio post mortem." This return preceded the grant of livery and all other confirmatory or approbatory acts of the Crown towards the new peer; and where we find in this solemn instrument prepared "coram Judice," and that so late as the year 1597, the next heir male under the settlement is judicially styled "Lord Baron of Slane," before the King otherwise had knowledge of his existence or accession, we must conclude that by the end of the sixteenth century the law or usage of Ireland in this respect had been settled, and that the next heir male inheriting the estates to which a dignity was incident or appendant, became immediately vested with such dignity without any act of the Crown, save perhaps afterwards the acceptance of the new peer's homage, and those other subsequent acts of recognition, which, under the feudal system, were as common to all tenants in capite as to the peerage. This William Lord Slane married Ellen one of the daughters of the late Lord, and had issue Christopher Lord Baron of Slane, who sat in the Parliament of 1614, as appears by several records; and afterwards, on a question of precedency arising in that Parliament between him and the Baron of Lixnaw, who was one of the most ancient feudal peers, a decision was made on the 17th of January 1615, by the Lords Commissioners for executing the office of Earl Marshal in favour of the latter. Amongst the Archiepiscopal records at Lambeth Palace

Chancery
Roll, Dub.
14 Jas. 1,
p. 1.

there are still preserved full notes of the proofs and evidences adduced by Lord Slane before the Commissioners on this occasion; and by them it appears that Lord Christopher was allowed to make pedigree under the first Baron of Slane appearing on record, through Lord Thomas the settlor of 1417, Simon his father, Baldwin his grandfather, and Lord Richard who was Baron of Slane in the year 1278, notwithstanding that the fact of the several intervening daughters, sisters, and other coheirs, was stated on behalf of Lord Lixnaw. This is a decisive proof that those parliamentary dignities were not created or conferred by the King's writ on the next heir male: were that the case, Lord Slane would be only a peer of the seventeenth century, and could therefore have no contest with the Baron of Lixnaw, who was indisputably a peer, as he shewed, of the twelfth century. The Commissioners who decided the question were the Duke of Lenox, the Earl of Nottingham, the Earl of Suffolk, the Marquess of Winchester, and Earl of Pembroke, all being English peers.—Lord Christopher's eldest son Thomas going abroad entered into orders in the Roman Catholic Church, and consequently was unable to enjoy the dignity as a Peer of Parliament: hence his Lordship opened the former settlements and vested the estates of Slane, Culmullen, Duleek, &c. in trustees, to hold the same to the use of his last will, by which will duly declared and published on the 20th of October 1624, he willed that the said feoffees should be seised of such estates to the use of his sons William, John, Patrick, James, Laurence, and the heirs male of their bodies respectively, with various remainders over in tail male to almost every branch of the family of Fleming, and with reversion "in fee to the Lord Fleming, now Earl of Wigdon in Scotland, and to his heirs for ever." By the same will he also charges portions for his daughters, Mary, Margaret, and Eleanor. Thus the estates were conveyed away from Thomas the eldest son and heir to William the second eldest son: and in the inquisition of Lord Christopher the jury found, that Thomas was his son and heir, but they also state, "William Fleming, son of the said Christopher late Lord Baron of Slane, in the said last

Inq.Chan.
Dublin,
temp.
Charles 1.

“will named, to whom and the heirs male of his body the use of all and singular the premises by the said last will amongst others, is now alive and in full life.” It has been already shewn that from the earliest period the Crown did exercise a right, during the civil or natural incapacity of a peer, to select such person as it thought proper to discharge those military and parliamentary services which all feudal peers were originally bound to render to the King; and on this occasion King Charles the First, by letter dated the 30th of October 1629, ordered that the said William and the heirs male of his body should be Lords Baron of Slane during the lifetime of the said Thomas; saving, however, the right of Thomas, should he return and claim the dignity: and afterwards, when a Parliament was called in 1634, on motion of counsel, a writ was issued to Lord William; and on the 17th of July 1634, he took his seat and place amongst the barons accordingly. Lord William was in the month of August 1652 excepted from pardon for life or estate, by an act passed under the Cromwellian government in England; and dying, left issue four sons, Charles, Randal, Michael, and Thomas. Charles, the eldest son, dying a minor without issue, was succeeded by Randal Lord Baron of Slane, who obtained his paternal estates by a decree of the Court of Claims, which was held in the reign of Charles the Second for the general settlement of all lands usurped and seized on by the usurped powers during the Civil Wars. It appears from an inquisition held in the year 1677, that Lord Randal had issue three sons; Christopher,* who succeeded, and Henry and Randal, who died issueless, and two daughters, Mary and Alice. His Lordship having retired with his lady and children into France, died there in the

Lords’
Journals.

Scobell’s
Stat. p.
198.

Decree of
Innocents.
Chief Re-
memb. Off.
Dub.

Inq. Chan-
cery Dub.

* Though Lord Christopher, in his petition to the House of Lords in 1709, distinctly calls Lord William, who was attainted, his “uncle;” and though it is difficult to presume an error in such a document, considering the near affinity of the parties, yet a settlement produced to the court by Sir Gregory Byrne and wife, and some important proceedings had by the Attorney-General afterwards, leave no doubt of the identity of this Lord Christopher as the son of Randal and as the forfeitor of 1691.

Epitaph
on Monu-
ment in
Slane
Chapel.

Privy Seal
Letter.

Statute
Roll. Parl.
Off. West-
minster.

Irish Sta-
tutes
7 Will. 3.

Lords'
Journals
2nd Dec.
1697; also
19th Oct.
1698, and
16th June,
1716.

month of October 1676; and in the ruined though still beautiful chapel near the castle of Slane there is a monument, on which is inscribed the marriage of Lord Randal to Penelope daughter of the Earl of Drogheda. Lord Christopher succeeded, and while yet scarcely eighteen years of age, unhappily saw in his own demesne the great contest between King William and King James brought to issue: the battle of the Boyne was fought almost under the walls of Slane castle, wherein his Lordship entertained King James the night before that memorable engagement. In consequence of Lord Christopher's attachment to that family, from whom he and his ancestors had received so many favours, he was outlawed and attainted in the year 1691, and all the ancient family estates were forfeited and subsequently sold, pursuant to the provisions of the Statute 11th and 12th Will. III. English. However, after the accession of Queen Anne, when the Crown considered his youth and peculiar situation, as also the services he had rendered her Majesty in her armies abroad, his Lordship, on the 7th April 1707, received a grant of £500 per annum for his support; and by an act of the English Parliament, entitled "An Act to reverse the outlawry and attainder of Christopher Lord Baron of Slane in Ireland," his Lordship was restored to blood. It should be observed that the Parliament of Ireland had already, viz. on the 7th December 1695, passed an act confirming the attainder of Christopher Fleming, late Lord Baron of Slane; and by a resolution of the House of Lords of that country, made on the 2nd December 1697, it was ordered "that such lords whose ancestors or themselves stand outlawed on record, ought not to have privilege of sitting in this House, *or to take upon them on any occasion any title of honour.*" Under this and subsequent orders, Lord Slane and several others of the most ancient peers in the country, who had incurred attainders during the disastrous periods of 1641 and 1688, were prevented from using their accustomed titles; and from that time until about the end of the last century, when his late Majesty George the Third permitted the reversal of several attainders, all such peers used the words "commonly called" before

their titles of honour, and in that manner were styled in all law and equity proceedings. Lord Slane however, considering himself restored in blood by the English statute just mentioned, presented a petition to the House of Lords in Ireland, praying his writ of summons "that he may take his place as a peer of this realme," he having been "*restored* to his blood and title of honour in this kingdom;" but no definitive order was made on this petition, owing to the jealousy then existing as to the question of the paramount authority of the English legislature, and which authority his Lordship seems to have acknowledged in obtaining the above statute of reversal. The heats excited by that assumed power are noticed by several historians; and a Government letter still existing, wherein Lord Christopher was recommended to change the style of his petition, and to introduce therein the words "commonly called," as more agreeable to the feelings of the Irish House of Lords, where the English act of reversal was so hostilely viewed, may best account for this application proving ineffectual. Lord Christopher was never able to procure an act to reverse the attainder incurred by Lord William in 1641; but he continued to receive the yearly pension of £500 until his death in the year 1726, leaving as his only child a daughter, Helen Fleming.

Original
Pet^{ms}. Parl.
Rec. Off.
Dublin
Castle.

Corre-
spondence
Books,
State Pap.
Off. Dubl.
Castle.

On this occasion we have the fifth instance of the dignity not going in the line of representation, or to the heir female, and of its devolving on the nearest heir male of the blood and surname of the first founder. That this instance is a valid one in every respect, notwithstanding that the Baron last seised did not take his seat, is evident from the following reasons:—In the first place, in all the lists of Lords entitled to their writs and seats on the reversal of certain attainders, is the Lord Baron of Slane, as will appear on referring to the Lords' Journals of several dates after the year 1691; and that under the English statute Lord Christopher was fully restored, is *now* at least clear, notwithstanding the factious proceedings of that day: next, it will appear by the state letters written at the period, that, in the opinion of the Crown and its advisers, his Lord-

Journals
of House
of Lords
Ireland,
2nd Dec.
1697, &c.
State Pa-
pers, Dubl.
Castle.

Commons' Journals, Ireland, vol. I. Append*.

Commons' Journals, Ireland, vol. I. Append*.

Warrants for Absence, State Pap. Off. Dubl. Castle.

Wills and Administrations, Court of Prerogative, Dub.

ship was legally restored and qualified to sit as a Baron, though Government could not wholly overcome the feeling raised in the House against the late reversal: and lastly, in the grant of pensions and in all the yearly accounts printed by the Irish Parliament for nearly twenty years, his Lordship while alive was entered and styled as "Christopher Fleming, *commonly called Lord Slane*." The father being thus in so many ways recognized, though without taking his seat, a grant on his decease of a yearly pension of £50 was made by the Crown to his only child Helen; and this daughter is therein and in all the returns to Parliament, as well as in several state warrants, simply styled Helen Fleming from the year 1727 to the year 1740; while Lord Christopher's next heir male, namely, William Fleming, was recognized by the Crown as "William Fleming, *commonly called Lord Slane*," during the same period. This appears by the grant made by King George the Second while Helen Fleming was still alive and receiving her pension, whereby his Majesty, on the 31st March 1731, granted the yearly sum of £300 to Clotworthy Viscount Mazareene and the Reverend Archibald Stewart, Doctor of Divinity, in trust for the MAINTENANCE and EDUCATION of "*Christopher, only son of William Fleming, commonly called Lord Slane, and his three daughters*." This grant, which shews the Crown to have taken the same interest in the education of those children as it would in the case of any other titled family similarly circumstanced, was frequently renewed and confirmed, viz. in the years 1760, 1761, &c. by other letters of his late Majesty King George the Third, until the year 1771, when Lord Christopher died unmarried, and probate of his will was granted by the Judge of the Court of Prerogative as probate of the will of "Christopher Fleming, *commonly called Lord Slane*."

Hereupon we have the sixth instance, in the course of three hundred and twelve years, of a default of issue male in the baron last seised, and of the non-inheritance of his coheirs or heirs in the line of representation: for we find by different grants and King's letters that the daughters named in the several grants of pensions made by George the Second and

Third-still survived; and after the death of their brother, the last-named Lord Christopher, without issue, his late Majesty was graciously pleased, on the 29th June 1772, by his letters under the Privy Seal, to renew and confirm to them as the *daughters of William Fleming Esquire, commonly called Lord Slane*, the yearly pension of £300; and though those ladies continued for a considerable time to receive this annual pension, which was paid to the survivor of them so lately as the 9th of April 1784, yet neither they nor their children have ever claimed any coheirship or other right in the dignity.

Appendix
to Com-
mons'
Journals,
Ireland,
Civil List,
&c.

The attainder incurred in 1641 by William Baron of Slane still remains in force against this title; and according to the construction lately given, the statute 9th Will. III. ch. 5, nothing short of a special enactment can now reverse that attainder.

See Ch. X.

It was conceived necessary to go thus minutely into the descent of at least some one of those dignities, in order that a more satisfactory opinion might be found of the principles which governed their descent; and a general knowledge of many of the deeds and other records relating to those dignities justifies the assertion that on similar principles almost all the Feudal Baronies have descended and been inherited during at least the last four centuries in Ireland.

It were curious perhaps to enquire how far this interesting peculiarity in the Irish Baronage was directly sanctioned by the Crown. In going into such an enquiry, it must be admitted, that after the arrival of William the Conqueror in England, the strict Feudal principles whereby females and the clergy, as being incapable of rendering military services, were excluded from the inheritance of feuds, had not prevailed in England; but it must also be stated, that long subsequent to King Henry the Second's expedition into Ireland, even to the middle of the fourteenth century, after the law as to the inheritance of sons and heirs male had been for centuries established, the right of succession of daughters or coheirs to dignities was not allowed in England. This is the opinion of the Lords' Committee when reporting on the dignity of the Peerage, and may be gathered from many records, as well

Lords'
Comm.
Report,
p. 196,
197, &c.

Cruise on
Dignities,
Chap. III.
and IV.

as from that patent of Edward the Third, conferring the Earldom of Huntingdon on William de Clinton, wherein the King notices the great want of titles, honours, and dignities by reason that many of them, *as well by their descent to coheirs and parceners*, as *by defect of issue* and other various events, had fallen into the King's hands; and proposing to remedy this defect, his Majesty created that earldom and some other new peerages. In the following reigns, while Tenure still had considerable influence, we have instances where Feudal dignities were acquired in right of daughters inheriting the estates to which such Baronies were formerly annexed; but, in every instance of this description, the writ issued was a new conferring of the title on the person so inheriting; and it was not until the seventeenth century that the right of females to those dignities was recognized in England. Even at that late period it will appear by the arguments of counsel and other proceedings, that such claims in right of coheirs were wholly new, and the works of Mr. Prynne, Mr. Elsynge, and Lord Chancellor West, who so thoroughly enquired into records on the subject, would negative the supposition of any such right flowing from writs. However, during and since the seventeenth centuries, so many decisions have been made, that a person summoned to Parliament by the usual writ, and taking his place in the House of Peers under such writ, acquired the dignity of a Baron for himself and his lineal descendants both male and female, that it is now universally admitted to be the law of Dignities in England.

After thus glancing at the former and present state of the law as to Feudal Baronies in England, and shewn that the right of coheirs to succeed to such dignities has been only allowed there within the last two centuries, we shall revert to such records as will enable us to learn how the law stood in Ireland as to similar dignities, and how far the Crown sanctioned (particularly after the seventeenth century, when the law was changed in England,) the preservation of that ancient usage or custom in favour of heirs male, which we have found by the foregoing sketch continued to prevail in Ireland. To

any person conversant with the public rolls of either country, and the numerous licences for alienation, pardons of intrusion, &c. which they contain, it is scarcely necessary to observe, that from the commencement of those records to the year 1660, while the Feudal system was in force, not one of those distant heirs male who succeeded in the Slane or other Feudal peerages to the exclusion of the heirs general, could enjoy the estates attached to such dignities without the direct licence and permission of the Crown. This was the law until the abolition of that system in the reign of Charles the Second; and by it we may learn that the Crown was a party in every instance where distant heirs male succeeded in preference to heirs general: and the issuing of writs of parliamentary summons afterwards to such heirs male is the most direct proof of the Crown's sanctioning their succession. But, in addition to these facts, there are some important documents that cannot be passed over in silence:—thus, by a charter in the reign of King John, the extensive lordship called the Decies was granted to Thomas Fitz Anthony, the King's Seneschal of Leinster; and after his daughter Margaret had married John Fitz Thomas, ancestor of the Earls of Desmond, the Crown granted the Decies and Desmond with the Castle of Dungarvan to the said John Fitz Thomas and his heirs for ever; with the proviso however, that if those lordships should happen to descend hereditarily to a *female heir*, then the King should re-enter into the said castle of Dungarvan (which was the caput baroniæ), and hold the same until an *heir male should succeed* or the *female heir be married*. As the disposal of the female heir in marriage belonged in this case to the Crown, such a proviso, it is clear, threw the dignity into abeyance until an heir male appeared, or until the King bestowed his ward and her estates in marriage, which was equal at the time to a new creation. To the same effect nearly is a record of King Edward the First in the year 1272, by which the King commanded that five castles granted as dower to Avelina, widow of Walter de Burgh, Earl of Ulster, should be enquired into, as the King declares that *castles*, or the homage and services of men of war, *ought not and were not used to be*

Patent
Roll, T. L.
20 Ed. 3.

Patent
Roll, T. L.
1 E. 1.

assigned to women.—Amongst the most ancient Feudal peers of Ireland was Le Poer, who, in almost every writ from the Crown, had the addition of “Baron of Donoil (or Dunhil, according to the present orthography) attached to the family name. A royalty, formerly part of this lord’s property, came into possession of another branch of the same family, namely, Le Poer Lord of Kilmeaden; and when King Edward the Third, in the year 1340, was confirming this royalty to Lord John Poer, the grant was made in the following words:—

“We have committed, given, and granted to the aforesaid John all advantages, profits, emoluments, fees, and commodities whatsoever arising from the wreck of the sea from the head of Credan to Stradbally, *as the Baron of Downehill formerly had and was accustomed to have the same, to hold to the aforesaid John, and the heirs male of his body lawfully begotten for ever.*”—But we have a striking instance in the same century of the Crown’s directly sanctioning this succession of heirs male, and that under peculiar circumstances. Lord Milo de Courcey, Baron of Kingsale and Ringrone, having died without issue, leaving four sisters his coheirs, an inquisition was held by the King’s escheator, and it was found that the said Milo died seised of Rynrone, which was held by the “service of one Baron;” and also of Kinsale, &c.; and that his four sisters were his coheirs: whereupon the King issued his writ to the same officer to make a partition of those lordships among them according to the law and custom of Ireland. This partition was accordingly made; but no right of peerage ever accrued to the coheirs or their descendants, although possessed of the estates: on the contrary, we find, immediately after the partition was made, that King Richard the Second, with the assent of his council, recognized the next heir male, viz. William de Courcy, as “*Gulielmo Domino et Baroni de Courcy*,” and as such, by letters patent granted him power to purchase a ship to sail between England and France, &c. His Majesty also, to qualify him as a Peer, conferred on him a yearly sum of £133. 6s. 8d. which, as appears by the Commissioners’ Report on the Civil List, James the First increased to £150; and the ancient Parliamentary dignity has

Inq. Co.
Water-
ford, temp.
Car. 1.
Chanc.
Dublin.

Chanc.
Roll, Dub.
46 E. 3.
Chief
Rememb.
Roll, Dub.
1 R. 2, &
6 R. 2.

Pat. Roll,
T. L.
20 R. 2.
p. 2.

Clarend.
Coll. Brit.
Museum,
No. 4756.

ever since continued in the heirs male of this Lord William. In the following (the fifteenth) century the practice of creating Parliamentary Baronies by letters patent commenced; and it is worthy of notice that the Crown almost invariably limited such to the heirs male of the person so created. There was, however, one Parliamentary Barony which was conferred by King Henry the Eighth on Sir Thomas Butler, and the circumstances connected with that creation bear strongly on the present subject. It appears that on the 10th of November 1543, the King by letters patent created Sir Thomas Butler *and his heirs* Barons of Cahir; and this Sir Thomas left an only son, Edmund, who succeeded to the title, and became the second Baron of Cahir; but dying without issue, the dignity went into abeyance between the said Lord Edmund's two sisters, Eleanor and Joan: but Queen Elizabeth, who seemed so intent on the internal improvement of Ireland, and who was strictly following that policy which she considered the most applicable to the state of the country, instead of determining the abeyance in favour of one of those sisters, directed her justices, on the 9th of February 1582, "to travel earnestly" with the said heirs general for the surrender of their right in that Barony, and to confer that dignity on the next heir male, Sir Theobald Butler, who was first cousin of the last lord. This was accordingly done, and Sir Theobald, on the 6th May 1583, was created Baron of Cahir, to hold to him and the heirs male of his body. The deed pole, by which the heirs general released their right to his lordship, is duly enrolled in Chancery.—The opinion entertained by the Queen of the right of succession to Feudal dignities may also be inferred from her orders as to the Baron of Athenry, which, both by historical and legal records, appears to have been an ancient Feudal dignity. Amongst those lords of English descent who, living in remote parts of the kingdom, had embraced the Irish laws and customs, and were recognized by the natives as chieftains, was the Lord Bermingham; and towards a due reformation of the country, Queen Elizabeth induced him, as well as others whose ancestors had in a great measure withdrawn from English rule

Chief Rememb.
Roll, Dub.
34 H. 8.

Chancery
Roll, Dub.
25 Eliz.

Chancery
Roll, Dub.
27 Eliz.

and government, to surrender their territories to the Crown, and accept new grants of the same from her Majesty. Accordingly, on the last day of February 1567, the Queen acquaints her Deputy of Ireland by letters from Westminster, that the "Lord Breminham of Anry" had recognized himself as a faithful subject of her Crown, and offered to surrender his estate for himself and his *sequel*, and to receive from her Majesty the same estates according to her pleasure;—that, in consideration of such submission, the Queen was pleased that he should have those "graces and speciall favors" in manner following: first, that the said Lord Breminham should deliver to the Deputy a full note of all the manors, castles, lordships, lands, seigniories, rules, rents, duties, customs, &c. whereof by any means he may now be seised; after which her Majesty will order her Chancellor to accept by deed to be enrolled, the said surrender and resignation of his name of Lord Breminham, and of all the said manors, lordships, &c.; "after which submissions and resignations so made, our pleasure is, that you our said Deputy cause our letters patent under our Great Seal of that our realme to be made to the said Lord Breminham," &c. "and the *heirs males* of his bodie lawfully begotten and to be begotten, of all said castles, lordships," &c. — Amongst the propositions made to James the First, when about calling a Parliament in Ireland, was one to the effect that Lord de Courcy should not be permitted to sit, inasmuch as heirs general having (frequently) occurred in his family, his honours were considered to have vested in them; but anxious as the King was to free himself from all opposition in that Parliament, the proposition was found not to be practicable, as Lord Chancellor Cox acquaints us, and the Baron of Kinsale sat in that and the succeeding Parliaments.—In the same reign the King's commissioners decided the case of Lord Slane, where so many heirs general occurred as has been already stated.—On the 28th of March 1614, the King, knowing that Arthur Lord Chichester, Deputy of Ireland, would shew himself "judicious, impartiall, and voide of affeccon in causes of soe tender a nature," empowered him, with the assistance of such of

Chief Rememb.
Roll, Dub.
11, 12 Eliz.

Cox,
Part II.
p. 18, 19.

Chancery
Roll, Dub.
14 Jac. 1.

the Privy Council and others as he should think fit, to hear and determine “upon due and diligent examination of all
 “such claymes and pretences, together with the proofs and
 “allegacions on both sides, as well the controversie between
 “the Barons of Delvyn and Killyne, as also all other doubts
 “and questions for such cases of precedencie or prioritie of
 “place as shall at any time before thend of the said Par-
 “liament happen to occure or arise.” In this case between the
 Lords of Killeen and Delvyn, if the opinion of the Crown was
 not in favour of the right of heirs male, there was little occa-
 sion for such a commission, as only forty-six years previously
 Christopher Lord Killeen had died without issue male, leaving
 three daughters; and though each of those daughters had issue,
 yet the Barony of Killeen devolved on James, Lord Christo-
 pher’s brother, as next heir male, and this Christopher’s son was
 the present claimant, who, but for the law or usage in favour
 of heirs male, could not contend for precedency with so ancient
 a Baron as the Lord of Delvin.—A large portion of the Kil-
 dare estates was inherited by Lettice, grand-daughter and
 heiress of Gerald Earl of Kildare; and this Lady Lettice in
 consequence claimed the ancient Feudal Barony of Ophaley,
 which had been enjoyed by her ancestors from the reign of
 Henry the Second, while the next heir male of the family was
 a minor. The King, to appease all differences arising con-
 cerning that honour, as he says, thought good to deliver this
 as his express pleasure therein, viz. that the said Lady Lettice,
 who “as heir generall to the house of Kildare, hath long en-
 “joyed the title of Baroness of Ophaleye,” as well in regard
 of her manifold verteous as her birth, shall *during her natural*
life enjoy the said title of Baronesse of Offalie; and after her
 death the *said honor shall revert again to the house of Kildare,*
and not to the children of the said Lady Lettice, or any others
clayminge by or under her. In consequence of this decision,
 which was made while Tenure had still considerable influence,
 the Barony of Ophaley continued to be enjoyed by the heirs
 male of the house of Fitzgerald, although Lady Lettice and
 her heirs inherited a principal part of the estates.—Another de-
 cision in favour of the heir male occurs in the succeeding reign.

Chancery
 Roll, Dub.
 11 Jac. 1.

Chancery
 Roll, Dub.
 18 Jas. I.
 p. 1.

It appears that King Charles, on his accession, created Sir Dominick Sarsfield Viscount of Kinsale, which being considered an usurpation of their right, De Courcy Baron of Kinsale and his son petitioned the King; whereupon the matter was referred, in 1627, to the Lord High Treasurer of England, the Lord President of the Council, the Lord High Steward of the Household, the Earl of Totness, and others, who on the 19th of April reported to the King, that upon full hearing of council on both sides, they found it proved by ancient records, entries in Parliament, deeds under seal, letters and certificates from the Council of Ireland and from the Privy Council in England, that the Lord Courcy and his ancestors had not only been styled and named Barons of Kinsale, but that it appeared also that the Lord Courcy was not only Lord Courcy but Baron of Kinsale and also of Ringrone: and on the other side, that that which was alleged against his right and title to the Barony of Kinsale, was that in some records and deeds he was found to be named Lord Courcy and Baron Courcy only, and the other baronies not named; which argument being only grounded upon omission, they held to be of little force, considering it is usual where divers baronies are in one and the same person, there the Baron hath used to name himself by his chief barony only, and to forbear the naming of the rest; yet that they found that his Lordship was often named Lord of Courcy and Baron of Kinsale also; and that in reputation as well as appellation he had always been called and compted Baron of Kinsale long before this question was stirred. And that this appearing unto them so clearly as it did, it was then endeavoured, on the Viscount's part, to avoid his Lordship's right, both *in course of descent by carrying the barony to another line*, and also by attainder, which should cut off the title from him, *but that both these allegations were answered and clearly avoided*. The Commissioners then recommend to prevent this confounding of titles of honour, which was without precedent, that the title of Viscount of Kinsale be withdrawn, and some other title conferred upon the same Sir Dominick Sarsfield: this was accordingly done by his being created Viscount Sarsfield

of Kilmallock, and the ancient parliamentary Barony of Kinsale remained in the Lords de Courcy, whose heir male still enjoys that dignity. Here the question was brought to issue before a competent tribunal. Gerald, the last Baron of Kinsale, had died so recently as the year 1599, without issue male, leaving an only daughter, Mary, who was married and had issue; and though it is evident that this was argued before the Commissioners, by Sarsfield's endeavour to avoid his *Lordship's right in course of descent by carrying the barony to another line*, yet the inheritance of Lord John de Courcy, as next heir male in the dignity, was confirmed, though he was only second cousin to the Baron last seised.

Inq. co.
Cork,
Chief Re-
memb. Off.
Dublin.

The letter of King Charles the First, in the year 1629, confirming the Barony of Slane to William Fleming and his heirs male, as already shewn, may be here cited as another evidence of the opinion of the Crown and its advisers on the rights of succession in those dignities. But in the descent of the Barony of Arklow, we have a more recent instance to the same effect. When Thomas Earl of Ormond died in the year 1515 without issue male, his two daughters, Anne and Margaret, inherited his estates as heirs general; and on the son of the Lady Margaret and of Sir William Bullen, her husband, the Crown was pleased to confer the Earldom of Ormond; but Sir Pierce Butler, the nearest heir male of Theobald Pincerna, or Theobald Fitz Walter le Botiller, the first founder, inherited the dignity of the Butlerage, as also the estates which had been granted to his ancestors and their heirs male; and though the Barony of Arklow, being one of the most ancient acquirements made by the family in Ireland, was a feudal dignity, and should, according to the present law of England, have become abeyant between the above heirs general, yet we find that it continued to be enjoyed by the heir male of the Butler family, even after an act was passed whereby all the estates of the heirs general of the Earl of Ormond were vested for special reasons in the Crown. It was so enjoyed by the successive heirs male who became Earls; and during the reign of Charles the Second, when the present law or usage in favour of heirs general was settled

Irish Sta-
tute, 28 H.
8, c. 3.

Patent
dated
2d April,
1662, &c.

History of
the King's
Inns, by
B. T.
Esq. Bar-
rister at
Law, and
Librarian
to the So-
ciety, Dub.
1806.

in England, the then Duke and Marquess of Ormond was styled "Dominus et Baro de Arclo" in various Royal instruments, and in the records of the House of Lords and Privy Council. Afterwards, when the second Duke James was in Ireland, in the year 1702, on the humble petition of the Honourable Society of King's Inns, his grace was enrolled as one of the benchers by the name of "Prænobilis Jacobus "Dux Marchio et Comes de Ormondiaë, Comes de Ossoria et "Brechtinio, Vicecomes de Thurles et Dingle, Baro de Arklow "et Louthinia," &c.; and though the registry of that society from which these words are taken may be classed perhaps only amongst quasi records, yet it is here quoted, in preference to many other documents, from the high judicial and legal character of the body to which it belongs.—Other cases of a later date might be cited, where the Crown determined in favour of the heir male, and particularly the two instances in the Slane Peerage, which occurred long after the present law had been settled in England, and which must be considered the more remarkable, as on neither occasion did the heir male possess any part of the estates to which originally the dignity was incident or annexed. It should be added that the latest occurrence of heirs general in the family of one of the Feudal Barons of Ireland was in the year 1818, when Francis Earl of Kerry, in whom was vested the Barony of Lexnaw or Kerry, which his ancestors enjoyed from the reign of Henry the Second, died without issue; whereupon, the several intervening coheirs excluded, that ancient dignity devolved on his nearest heir male, the Most Noble Henry Marquess of Lansdowne, Earl of Kerry and of Shelburne, Viscount Clanmaurice and Fitzmaurice, and Baron of Kerry, Lixnaw, and Dunkerrin, who now continues to enjoy that dignity.

Positive proofs may thus be gathered, that by decisions and otherwise the Crown invariably recognized and sanctioned the right of succession in heirs male to the exclusion of heirs female. The statutes 38th Hen. VI., and 3rd Edw. IV., and some later proceedings of the House of Lords, shew that this right was also approved of by the Parliament

of Ireland. It only therefore remains now to offer some probable reason for this usage as to heirs male.

The original cause of customs or usages in countries is not to the lawyer a matter of paramount importance; for him it is sufficient to shew the existence of such customs: still, however, in the attempt to trace them to their origin, lights may be afforded not only useful to him, but even to those whose enquiries would extend to more general information. With this view the following is offered as the probable origin of the usage in dignities which now appears peculiar to Ireland.

The settlement made in England by William the First was followed within two centuries by an almost general amalgamation of the settlers and the natives, and whatever exclusive rights the Normans enjoyed for some time after the Conquest, all international jealousies and hostilities seemed to have ceased towards the end of the thirteenth century. To this the history of the settlement effected by Henry the Second in Ireland presents a remarkable contrast: there, for more than four hundred years, the most incessant wars prevailed, and the natives, evincing an extraordinary adhesiveness to ancient manners, as well as ancient forms of government, preserved down to the seventeenth century their own language, laws, and customs. This state of things influenced in many respects the conduct of those who had settled in the country, and to it may fairly be attributed that law or usage in the descent of dignities of which we have just been treating. While the Irish, revolting at the indignities which in too many instances had been heaped on them, were continually in arms against what they naturally conceived to be the usurped authority and possessions of the settlers, it was but reasonable that the latter, on the other hand, should pursue that policy which would most effectually prevent the diminution of their own resources and the increase of their opponents' influence within the English settlements. To effect this, they found little difficulty, when supplying the sovereign with military aids for his foreign wars, in obtaining royal mandates against the natives; and so early as the year 1216 we find an ordinance sent from

Pat. Roll,
T. L.
1 H. 3.

England enjoining the Justiciary not to permit natives to be elected to ecclesiastical dignities or promoted to cathedrals. This was followed by others of similar tendency, and subsequently statutory enactments were framed in Ireland, not only excluding the natives from all offices or elections for offices which might give them any influence in public councils and parliaments, but also against marriages or other social alliances between the two classes of inhabitants. That the Crown occasionally lent its authority to such measures must be admitted; but it is evident, at the same time, that this sanction was only extracted in moments of public exigency, and that the policy of King John, who when last in Ireland aimed at a general equalization and blending of his subjects in that country, was constantly kept in view by his four immediate successors. Though that measure was never accomplished until the beginning of the seventeenth century, much

Pat. Roll,
T. L.
17 John.

however in the mean time was effected by the interposition of the Crown. John, so early as the year 1216, by his grant of "English law and liberty" to Dovenall O'Neill, laid a precedent for those numerous charters by which particular natives applying to the Crown obtained all the rights of its subjects, and were freed from those penalties and disabilities, whether imposed by statute or ordinance, which proved so injurious to the rest of their countrymen. Similar charters were numerous granted by his successors; and as it was a power of the Crown which had been never questioned, and which tended beneficially to mitigate the severity of injudicious laws, we find those charters crowding our rolls down to the reign of Elizabeth. Such documents elevating the natives to their proper position as subjects, coupled with the mandates issued by the three first Edwards, recommending a general extension of English law to all, left little doubt of the policy of the Crown. With the aristocracy in the English settlements, therefore, who foresaw that however remote the period might be, the state would ultimately carry this measure into execution, it became of the deepest importance to secure to themselves and their families those possessions which had been acquired and preserved under such peculiar dif-

ficulties. The nobility in particular, who considered their order as the principal support of English dominion in the island, were always averse to the contemplated change; and viewing the paucity of their numbers, and the frequent occurrence of heirs female in their families, they looked on an equalization of the laws as a sure precursor for the loss of their power, and to the extinction of their hereditary dignities, which, at a period when Tenure solely prevailed, on descending to females would be inherited, through intermarriage, by those hostile chieftains from whom the territories were originally wrested. To avert this evil, and to exclude the natives from inheriting those dignities whence the "*consilium et auxilium*" of English government were derived, no means seemed more effectual than that of locking up the estates to which such dignities were attached, and rendering them uninheritable by daughters, or females from whose future connexions danger was apprehended. Hence, soon after the statute "*De Donis Conditionalibus*" gave assurance of law to settlements and entails, we find there commenced amongst those nobles a practice of entailing their seigniories, and that almost invariably on the heirs male of themselves or the original founders. Though, at the period now spoken of, it was not usual to enroll on the public rolls the private deeds or settlements executed by individuals, still we can collect from record repositories sufficient instances to warrant this assertion. The settlement made by Lord Rochford (*de Rupeforti*) in the year 1299 may be cited amongst the earliest and most satisfactory cases of the kind. This Baron settled his estates of Karrick, Maynam, Rathcoffy, and "his whole Barony of O'Kethy," with the inhabitants, English and Irish, there living, on himself and the heirs male of his body, as fully as his father, the Baron of O'Kethy, had the same; and in default of such heirs male, remainder to Henry son of Lord Simon de Rochfort, and the heirs male of his body; and should this Henry son of Lord Simon die, leaving a daughter or daughters, such daughter or daughters to have a year's value of the estates towards their marriage; but should he die without heirs male begotten, then the "nobilior, dignior,

Chief Rememb.
Roll, Dub.
28 E. 1.

“fortior, et laudabilior de puro sanguine et cognomine Roche-
 “fordeyns, extractus a sanguine Domini Walteri de Rupeforti
 “et Dominae Evæ de Hereford uxoris suæ,” should inherit
 the barony and lordships; so that the inheritance never should
 pass to daughters, “ita quod ad filias nunquam transeat
 “hereditas.” This curious settlement, which goes so far to
 explain the feelings of the ancient Barons, was followed by
 similar instruments, under which, in the next century, the
 Barons of Rathdown, Navan, Dunboyne, Killallon, (now
 merged in Killeen,) Athenry, Roche of Fermoy, the Earl
 Desmond, the Barons of Narraghmore, Galtrim, Scryne,
 Le Poer, De Loundres, &c. entailed all their seignories on
 heirs male respectively; and in many of those settlements
 remainders are created for the most remote male branches
 of the settler’s family, as if to exclude the possibility of heirs
 general inheriting. In the following century, foreign wars
 and the lamentable contentions which arose for the Crown of
 England, left Ireland wholly in the hands of those nobles:
 they renewed and enforced various laws against the natives,
 and as the latter had by that time regained a considerable
 portion of what were once looked on as English possessions,
 and had evinced a more general hostility, it became easier for
 the nobility to obtain the concurrence of a weak and embar-
 rassed government in their measures. To this cause may
 be attributed the non-enactment in Ireland of some statute
 similar to the 4th Hen. VII. which so rent the entails of Eng-
 land: and if that statute were introduced under the gene-
 ral terms of the 10th Hen. VII. it seems perfectly clear, that
 either it was not enforced, or received a more limited con-
 struction than the wishes of the King and public feeling
 had obtained for it in England. In fact, though some
 acts had been passed in that reign to curb the excesses of
 the nobles, yet the Crown, with occasional exceptions,
 seemed thenceforward to have concurred in their views; the
 power of the natives had considerably increased, while their
 pretensions had materially changed, and under such cir-
 cumstances it would be unwise to alienate the affections
 of those who seemed the principal supporters of English

Statutes of
 Ireland,
 10 H. 7.
 ch. 6, 7,
 17, 20.

authority. The entails therefore encreased, seemingly encouraged by the policy of the state, which sanctioned any measure tending, however indirectly, to check the encreasing power of an inimical people; and after the reign of Henry the Seventh there were few of the Feudal dignities in Ireland that were not under strict settlement. In the sixteenth century, Queen Elizabeth found the great body of the natives no longer suppliant for the extension of English laws; but, infuriated by the unjust policy of nearly four hundred years, they, in common with some of the most eminent families of English descent, to whom they had been now allied by intermarriage and otherwise, were proffering their allegiance to foreign crowns; and the course pursued by that Queen, as appears by her records, was the reclaiming of those subjects of English descent who had withdrawn from the authority of English government, and the detaching of them from those alliances and connexions which seemed to threaten the abolition of her authority. Need we wonder, therefore, that the Queen partook of the feelings of some of her predecessors, and that on the escheat to the Crown of territories by forfeiture, her Majesty strictly prohibited the regranting or subsetting of any portion of those territories to the Native Irish, whose existence by this time as a people seemed to her advisers almost incompatible with the maintenance of English government in the country. Even when granting estates in Ireland to subjects born in England, and whose attachment to her interest was undoubted, it became usual with the Queen to order the insertion of clauses in their patents, whereby it was provided, in case daughters succeeded to those estates, that such daughters should "be bestowed in marriage to no persons but to suche onlie as be of Englishe birthe for two descents successively to followe." Many of Elizabeth's grants are to be found certainly, by which favours were conferred on the native chieftains; but some of these grants conveyed the chieftaincy and estates to junior or spurious members of the sept, in opposition to the then acknowledged chief; others conveyed the estates of the whole sept to the chieftain and to the heirs male of his body, though only deriving from the

Commⁿ.
for Plant.
Munster
1586.
Chief Rememb.
Roll, Dub.
29 Eliz.

Chief Rememb.
Roll, Dub.
24, 25, 26
Eliz.

Report on
Military
Forts, by
the Right
Hon. the
Commis.
of Crown
Lands.

Ch. Rem.
Roll, Dub.
21, 22, 23,
24 Eliz.

Commis-
sion Chief
Rememb.
Roll, Dub.
21, 22, 23,
24 Eliz.

sept, according to their laws, the usual life interest in such estate; and most of the other seeming instances of royal favour evidently proceeded from similar motives, namely, the creation of internal commotions amongst the septs, and the total annihilation of that spirit of clanship which had so long preserved the power and influence of the natives. To further those views, fortresses were also erected or newly munitioned, and largely endowed with landed estates for their maintenance: many of these were garrisoned with governors and military companies on the nomination of the Crown; and even at the present day (strange as it may appear) some of those fortresses, with their original endowments, exist; while several of them were granted to experienced English officers and their heirs male, with a cautious clause, that during the minority of such heirs male, the government of Ireland should have power to appoint a sufficient military guard for defence of the said castles and estates, and the minor to be chargeable with the expences of "ten hable soldiers" for that purpose. Many other of the state measures of Elizabeth's reign bespeak an equal tendency to a revival in Ireland of that feudal spirit which had so rapidly declined in England. Force was absolutely necessary, but the idea of regular standing armies was little understood, and therefore recourse was had to a rigorous revival of that ancient system of military government under which a footing had first been made in the island, and which there, as in Scotland, had not yet been wholly disused. Of course, amidst such arrangements the nobility were not forgotten; on the contrary, when the Queen, towards an increase of her revenue, appointed Commissioners for disposing of the wardship and marriage of her tenants in capite, she specially reserved to her own disposal the wardship and right of giving in marriage of all her Barons and other superior Peers in Ireland; and further, a statute was passed in the 11th year of her reign, whereby it was made treason for the Irishry to nurse or foster the children of her Peers in Ireland. By this means, she retained a considerable check on further alliances with the natives; and seeing the numerous intermarriages that had

taken place before her time between them and her nobles, and the consequent possibility of large districts vesting through females in declared enemies, or at least doubtful subjects, her Majesty fully sanctioned the ancient usage of limiting their estates and dignities to heirs male; and from several instances that occurred during her reign in the Feudal Baronies of Kinsale, Slane, Barrymore, Athenry, Killeen, &c. where distant heirs male succeeded to the dignities, and were recognized and summoned as Peers by the Queen, while heirs female and their issue were existing, it does appear that at that period this law or usage was not only prevalent, but approved of by the Crown. In the following century, the right of heirs male was considered to be the law, as must be presumed from the adverse claims which were unsuccessfully brought forward; and afterwards, though the principal causes for this law or usage had ceased to operate and became unknown, yet, like most ancient customs, it was found, after the lapse of ages, to have created vested rights more ancient than many of the oldest institutions of the country, and which could not be altered without a general recurrence to first principles, and the probable subversion of the most valued institutions.

In conclusion it may be remarked, that the Feudal law was wholly unknown in their own country amongst that people with whom it is said to have originated; after their incursions and settlement in foreign regions, it gradually sprang up as the result of novel circumstances, and to meet the exigencies of their situation. Founded therefore in expediency by a migratory people, the Feudal system, with the exception of military services and subordination which were invariably preserved, seems to have yielded to circumstances and events in all countries where that system was introduced: hence, knowing "the absurditie of him that transferres the "lawes of the Lacedemonians to the people of Athens," the prevailing principles of Feudal law were governed by the "Mos Regionis," the "Usus Provinciæ," and the "Consuetudo," or custom of the country where they were known. Of this the most beautiful practical illustration may be found

Justice
Wright on
Tenures.

Dalrym-
ple's Essay
on Feudal
Property,
Lond.
1750.

in the laws or customs of Dignities now known in England, Scotland, and Ireland. In England those Feudal dignities are and have been for nearly two hundred years inheritable by heirs male and female in the line of representation, the male heir however being always preferred to the heir female of equal consanguinity, which rule affords a trace of the ancient law of England in favour of heirs male. "In Scotland, unless admitted by the patent," females are excluded from dignities; while in Ireland those ancient honours have been hitherto only inheritable by heirs male.

The following are the principal Parliamentary Baronies that continued to exist in Ireland after the abolition of the feudal system; and on tracing their descent through the public records, it will be found that during several centuries, agreeably to what has been just stated, they have been almost in each instance inherited by distant heirs male, in preference to heirs lineal if female: four of them are now abeyant or dormant; others are still enjoyed as ancient prescriptive or feudal peerages; while the greater number are at present merged in higher honours, granted by patent to those who formerly possessed them, and will of course, on the extinction of the dignities created under such patents, survive as Prescriptive or Feudal Baronies, and be enjoyed by the heir of the original founder.

ARKLOW,
ATHENRY,
BARRYMORE,
CLANRICKARD,
DELVIN,
DUNBOYNE,
DUNSANY,

FERMOY,
GORMANSTOWN,
HOWTH,
KILLEEN & RATHREGAN,
KINSALE,
LIXNAW OR KERRY,
OPHALEY,
and SLANE.

CHAPTER IX.

FAMILIES OF DESMOND AND PLUNKET.

To exemplify a few of the leading principles which governed the descent and inheritance of Feudal dignities, the following notes have been collected relating to the

HOUSE OF DESMOND.

It should be observed that this House, though so illustrious and so closely connected with the history of the country where it flourished for several centuries, has been the subject of much misconception. When the first regular account of the Irish Peerage was published, its indefatigable author, Mr. Lodge, (whose work has been followed almost universally by subsequent writers,) fell into some errors, which the extent and intricacy of such an undertaking rendered it impossible to avoid: amongst those errors, none are more remarkable than his statement as to the early Lords of the House of Desmond, whom he confounds with the first Barons of Ophaley, founders of the House of Kildare and Leinster.

As it must appear invidious, however, to dwell on the mistakes of one who, under the most discouraging circumstances, made the first attempt at an authentic history of the Peerage of Ireland, it may be sufficient to state here, that from at least the year 1199, when the series of rolls in the Tower commences, the Lords of those two Houses were separate and different persons, holding separate and distinct properties in parts of the kingdom widely distant from each other. This appears by a connected series of records entered on those rolls, in which it will also be found that the first Lords of the Desmond family held large seigniories in Munster of

the Crown *immediately* in capite; and therefore the King was always their guardian, and had the disposal of them in marriage; while the founders of the House of Kildare held their seigniories in Leinster of the Crown *mediately*, viz. by subinfeudation under the Earls of Pembroke, who consequently, as Lords of the Fee, were entitled to, and did continually enjoy, the wardship and marriage of them as Barons of Ophaley.

One difficulty experienced by Mr. Lodge, and all others tracing those dignities through early records, must be noticed as probably in some measure contributing to the above mistakes: this difficulty arises from the fact, that though some of the Feudal lords are frequently styled "Dominus et Baro" in the public records, particularly that branch of the Power family resident at Donhill, who, (like the two families of Greystock and Stafford in England,) in almost all writs of summons and other instruments, have the additional title of "Baro" attached to their other appellations; yet the greater number of the Feudal lords, especially the more potent magnates, such as De Lacy, De Verdon, Geneville, Butler, and the founders of the Houses of Desmond, Kildare, &c. seldom, if ever, appear on the records with the word "Dominus" or "Baro" prefixed or attached to their names. Thus, for instance, the successive Lords of the House of Desmond, from the year 1199 to 1327, are only traced through the public rolls, by the names of "Thomas filius Mauricii," "Johannes filius Thomæ," "Mauricius filius Johannis," "Thomas filius Mauricii," and "Mauricius filius Thomæ," and the successive Lords of Ophaley are at the same period simply called "Mauricius filius Geraldi," "Geraldus filius Mauricii," "Mauricius filius Geraldi," &c. without any addition; and as those names were common to many other individuals of that age, it may readily be seen that much difficulty is encountered in tracing the early descents of those noble families. This circumstance in itself also shows that some of the more eminent houses used formerly no fixed surname, (now properly so called,) or family name, by which their identity might be ascertained; and indeed such surnames were not generally adopted in Ireland for some centuries after the reign of

Henry the Second, as appears from many documents, and particularly by some statutes passed so lately as the end of the fifteenth century, wherein we find the junior members of the Houses of Ormond and Desmond recognized by surnames taken from the titles of honour borne by the elder branches of their families. The Earl of Ormond's brother is therein called "Sir John of Ormond, alias John Butler;" the father of another Earl is called "Sir James of Ormond;" and the brothers of the Earl of Desmond are in the letters patent of Henry the Seventh styled "Thomas of Desmond," "John of Desmond," "Gerald of Desmond," &c. It is unnecessary however to pursue this subject further than to add that this disuse of family names in some cases, and the want of additions or descriptions by titles of honour in most other instances, increase much the difficulty of tracing the descent of the feudal peers through public records, and leave the enquirer open to many doubts and misconceptions.

The ancestors of the Earl of Desmond, soon after the arrival of Henry the Second, acquired large possessions in the counties of Limerick, Cork, and Kerry. One of the territories then obtained was a district now called the Barony of Connall, or Connelloe, in the county of Limerick, containing upwards of one hundred thousand acres of land; and this tract, which in ancient documents is called "Okonayl" and "Ogonneloe," was ceded to them by the native family or sept of O'Connell, in consideration of lands assigned them in the counties of Kerry and Clare, where branches of that family continue to the present day. On the 6th of September, in the year 1199, King John by charter granted to the then Lord, viz. Thomas Fitz Maurice, an additional estate of ten knights' fees, for his homage and service in the cantred of Fonternel, and also in Thomond, &c. to hold the same to him and his heirs by the service of so many knights as are therein specified, with soc, sac, tol, theam, infangthef, outfangthef, and other those franchises, which vested in the grantee what was then the distinguishing privilege of the Baronage, namely, a civil and criminal jurisdiction or power of administering justice amongst his tenants and vassals residing in those dis-

Charter
Roll, T. L.
1 John.

triets. Lord Thomas died in or before the year 1215, as appears by two documents, which also ascertain a point hitherto doubted in the history of English law. It has been stated that the "maritagium" of heirs male was not claimed by the Crown until the reign of Henry the Third; but in the instruments alluded to we find, that the widow of this lord had tendered one thousand marks for the wardship and marriage of his son and heir, of which sum she paid five hundred marks to the King in Normandy; and that in the seventeenth year of the same reign the wardship and marriage of the same son and heir were granted (perhaps on the widow's death) for six hundred marks by King John to Thomas Fitz Anthony.

Close Roll,
T. L.
16 John.
Pat. Roll,
T. L.
17 John.

This Thomas filius Anthonii was the King's seneschal of Leinster: to him was committed the custody of the county of Waterford, and of all the castles and demesnes there, with half the prisage of wines in the city of Waterford, &c. On the 25th of April 1218, the King ordered him not to permit the men of that county to molest Galfrid de Gampville and others his Barons of England there; and on the 17th of July 1221, he is the first nobleman to whom Henry the Third addressed his letters from Westminster, complaining of the conduct of Geoffrey de Marisco, Justiciary of Ireland, requesting his aid and assistance for the Archbishop of Dublin, to whom the government of that country had been committed. By him was incorporated, near the Abbey of Jeripont, whose ruins even now present a magnificent specimen of ancient architecture, the town known in ancient documents as "Villa Thomæ," or "Thomastown," in the county of Kilkenny, which the natives at this day in the Irish language call "Ballymac Andaun," or, "the town of the son of Anthony." He died before the year 1229, leaving a daughter Margaret.

Charter
Roll, T. L.
17 John.

Close Roll,
T. L.
2 H. 3.

Informa-
tion of Dr.
Nugent.

The son and heir of Thomas filius Mauriti was "Johannes filius Thomæ," who while in ward was married to his guardian's daughter, the above-named Lady Margaret. He was of full age in the year 1229, as in that year he had the King's writ of military summons to attend him with the other Earls and Barons of England and Ireland. In the

Close Roll,
T. L.
13 H. 3.

King's accounts of the year 1232 he is entered as paying the relief due out of his wife's share of her father's inheritance, and also as paying some of the debts due to the Crown by Thomas fitz Anthony. In the year 1244, Henry the Third, by letters, thanked him and some of the other Barons of Ireland, for their repairing to him against the King of Scotland; and expressed a hope that he may again have their services in the ensuing summer, so that they might be able to return from him to Ireland with manifold honours and suitable rewards. In the same year a grant was made to John Fitz Thomas, that he and his heirs for ever might have free chase and warren through his whole estates of Okonyl, Muskry, Kery, &c. and that no person should enter on such free chase and warren without the licence and will of the said John and his heirs. The charter for this purpose is dated at St. Alban's on the 11th day of June, and is witnessed by the Earl of Cornwall and others. At that period the principal title of honour appertaining to the family seems to have been derived from the barony of Okonyl, or Ogonnil, of which they styled themselves Baron or Lords, even after their elevation to the Earldom of Desmond. But in the year 1260 Prince Edward, having obtained from his father the dominion of Ireland, granted to Lord John, for his homage and service, all the lands of the Decies and Desmond, with the castle of Dungarvan, and all the officers, rents, sheriffs, &c. there, of which, as the charter states, Thomas Fitz Anthony, father of his wife Margery, died seised, by virtue of the grant of King John: to hold the same as fully as the said Thomas enjoyed them, excepting only the advowson of the church of Dungarvan; rendering yearly five hundred marks, and the fifteenth part of one knight's fee, to the King: provided however, should war be waged in Ireland, or should a sure suspicion arise against the said John or his heirs, that then the said castle of Dungarvan should be given up to the Crown, as long as such war or suspicion prevailed: and provided also, should the said lands, &c. descend hereditarily to a female heir, then the King should hold the said castle until an heir male succeeded, or until that female heir

Fragment
Acct. Roll,
16 H. 3.

Close Roll,
T. L.
28 H. 3.

Charter
Roll, T. L.
28 H. 3.

Stat. Roll,
Chancery,
Dublin,
3 E. 4.

be married. Under this charter, John Fitz Thomas became also seised of the baronies or lordships of the Decies, Desmond, and Dungarvan, the latter of which, though perhaps originally its castle was held as the "caput baroniæ" of the Decies, is stated in a statute passed more than two hundred years after, to be a seigniory and *del auncient temps le tres-plüs graund auncient honour perteignaunt au Roy in Ireland*. In the year 1261, a jury found that the cantreds of Oconyll were within the county of Limerick, and that the King's sheriffs and coroners always had jurisdiction therein as part of that county, until this Lord John Fitz Thomas prevented them, alleging that the pleas of the same belonged to his county of Kerry. He died before the year 1270, as did also his eldest son Maurice Fitz John, who, by Matilda de Barry his wife, left a son and heir Thomas Fitz Maurice.

Chart.
Roll, T.L.
20 E. 1.

This Lord Thomas, or Thomas filius Mauricii, as he is called, was for a long time a minor; and having entered into possession of those seigniories in Desmond and Waterford without livery obtained from the King or his ministers, he had judgment against him in the King's courts, and was dispossessed of the same; but afterwards, for the services which he and his ancestors had rendered to his Majesty and his progenitors, King Edward the First, in the year 1290, re-conveyed and confirmed the same territories to the said Lord Thomas and his heirs for ever, as fully as he had formerly enjoyed the same, with all the "bedellarii," rents, farms, suits of court, services, liberties, and free customs, and with the homage, rents, and services of all the tenants, English and Irish, to that land belonging; saving however thereout the cross lands and county courts, and all pleas and perquisites to such courts and to the Crown belonging: provided that the said Thomas and his heirs should only appoint such "bedellarii" as they would be responsible for, and such as would be answerable and assistant to the King's sheriffs. After this, King Edward addressed him by writ of military summons, dated at Portsmouth on the 29th of June, stating that he had, pursuant to treaty, done homage to the King of France for Gascony, yet the French King had taken possession of that country and detained it;

Gascony
Roll, T.L.
22 E. 1.

wherefore his Majesty, not being able, as he says, to recover his rights without the counsel of his good people and friends, requests of Lord Thomas, by the faith and homage which he owed the Crown, to be at London on the 1st of September, with horses and arms, ready to accompany the King in his voyage for recovery of that country. In the next year, the King applied to the Justiciary for a certain number of knights and ten thousand footmen, fully accoutred and armed, to be sent him out of Ireland; and to facilitate the raising of such forces, he addressed his writ to Lord Thomas Fitz Maurice, the Earl of Ulster, &c. enjoining them to confide in what the Justiciary should, on his Majesty's behalf, propose to them. After this, the King issued another writ to him in the following year, to be at Whytheweyhanne on the 1st of March, with horses and arms, ready to sail in his expedition; and on the 4th of May, 1296, his Majesty again addressed him and the other nobles of Ireland for their assistance against the King of France, entreating them to come over to him fully prepared on this occasion for the defence and salvation of his kingdom; adding, as a peculiar mark of honour towards them, "*Scire autem vos volumus quod vos juxta latus nostrum retinere proponimus, et alicubi a nobis nullatenus destinare, per quod nobis videtur quod ad veniendum ad nos et eundum nobiscum in forma predicta proniores esse tenemini et eciam promptiores.*" Lord Thomas was Chief Governor of Ireland, and afterwards died, leaving two sons, Thomas and Maurice. The elder son, Thomas, was only ten years old at Easter in the 28th Edw. I.; and during his minority, the estates, comprising Dungarvan, Newcastle, Kylyse, &c., and an estate in Connaught, held under the family by Henry de Rupe, were valued by the King's escheator, who moreover found that Margaret, widow of Thomas Fitz Maurice, had dower thereout, as had also Matilda de Barry, widow of Maurice Fitz John, his father. At this period, while the estates were in the Crown, King Edward granted to "*Gerard Doronis,*" who is elsewhere styled "*Valectus Domini Regis,*" one hundred librates of the land, in consideration of his daily services: and the same Gerard, by deed dated the 18th May 1306, demised

Close Roll,
T. L.
23 E. 1.

Close Roll,
T. L.
25 E. 1.

Ch. Rem.
Roll, Dub.
28 E. 1.

Ch. Rem.
Roll, Dub.
28 E. 1.

Chief Rememb.
Roll, Dub.
35 E. 1.

part of this grant, viz. the castle and lordship of the New Castle of Oconille, with all its demesnes, &c. during the minority of Thomas Fitz Maurice's heirs to Sir John de Barry, Baron of Barryroe; and the said Sir John, for the due payment of the rent then reserved, pledges himself and all his lands in Wales, England and Ireland; giving at the same time as "*fidejussores et principales debitores*," according to the custom of that day, Philip de Barry, Lord of Kilbrun, Lord Henry de Capella, Henry son of Lord John de Cogan, David son of Alexander de Rupe, Lord of Fermoy, &c. During this nonage also it is worth noticing, that the Crown appointed John le Poer, Baron of Donhill, sheriff of the county of Waterford; and the reasons for the appointment are stated to be, that much damage was done by divers malefactors running through that country, some of whom were of the family of the Poers, and others under that family, whom neither the sheriff nor people could resist, &c. : wherefore John le Poer, Baron of Donhill, *who all such malefactors of his family and their accomplices is fully able to chastise, is made sheriff there*; and it is ordered that he have the indictments, writs, and other things belonging to that office. At the same time, the Prioress of Oconyl sought relief from the King's court, during this minority, against Maurice Fitz Philip, who took away her horse to the wars in Leinster, promising to return the same in good condition; but he detained it six months, and who with his kerns forcibly takes meat and drink from the said prioress and her nuns; whereby they are so much injured, that the tenants are leaving their lands, &c. Thomas the minor died, however, in or before the year

Chief Rememb.
Roll, Dub.
33 E. 1.

Ch. Rem.
Roll, Dub.
35 E. 1.

1309, as appears by a writ directed to the escheator, and dated the 2nd day of April, in the second year of Edward the Second; and by an ancient pleading, which recites several descents of the family, we find he left no issue, and was succeeded by his brother and heir, Maurice Fitz Thomas.

Ch. Rem.
Roll, Dub.
2 E. 2.

Ch. Rem.
Roll, Dub.
3 & 4 E. 3.

Close
Roll, T.L.
8 E. 2.

This Lord Maurice was of age in the year 1315, as on the 12th of August in that year the King addressed him by writ with the other nobles, enjoining him to confide in John de Hotham, who was sent to Ireland on some affairs specially

touching his Majesty and the state of his kingdom: and King Edward at the same time ordered the Justiciary to summon a Parliament to treat on the same affairs. In the next year, with Richard de Clare, Thomas Fitz John, John le Poer, Baron of Donhill, Maurice de Rocheford, &c. he entered into a written engagement and fealty to the King, in consequence of the Scotch invasion. In the year 1321, the King ordered his treasurer to pay the expences incurred by his beloved and faithful Maurice Fitz Thomas at Waterford, while on the King's arduous affairs there, with Thomas Earl of Kildare, and others of the council; and on the 15th of May, a writ issued to him from the King to meet his Majesty at Carlisle with all his force, to proceed against the Scotch. In the following year he received another writ from the King, countermanding the above summons, as his Majesty states that he had concluded a treaty with the Scotch for thirteen years. On the 30th of October 1325, special letters were directed to him by King Edward, informing him that the King of France was invading Aquitaine with a great army, and that to oppose him, and for defence of the inheritance and rights of the Crown, his Majesty required the counsel and aid of his Lordship, &c. and therefore now required him to attend with horses and arms in his expedition to Aquitaine. At Easter, in the 17th year of the same reign, Lord Maurice Fitz Thomas, with the Earls of Ulster, Kildare, and Louth, and others the Earls, Barons, &c. in a full Parliament at Dublin, affixed their seals to a declaration for the better observance of the common law, the ordinances of Dublin, the good usages of Ireland, &c.; which declaration is embodied in the statute passed on that occasion, and affords ample evidence of sitting for the Feudal Peers whose seals are thereto affixed. In a few days after the accession of King Edward the Third, he sent his letters into Ireland, acquainting Lord Maurice Fitz Thomas, that by the *will* and *assent* of his father, Edward the late King, and at the request of the Prelates, Earls, Barons, and Commons, he had ascended the throne;—that assured of the probity and wisdom of the Earl of Kildare, he committed to him the government

Chief Rememb.
Roll, Dub.
14 E. 2.

Close Roll,
T. L.
15 E. 2.

Gascony
Rolls, T. L.
18 E. 2.

Chief Rememb.
Roll,
Dublin,
18 E. 2.

of Ireland; and confiding in that constant fidelity and pure affection which Lord Maurice and his ancestors (as his Majesty knew) always exhibited towards the throne, he requests him to continue that laudable conduct, and to assist the Justiciary by his counsel and aid in all things relating to the good government of that land.

The state of abeyance in which this family remained, as it may be said, from the year 1297 until Lord Maurice came of age, retarded its advancement to higher honours. Within that period, the Houses of Kildare, Bermingham, and Butler, whose members were able to take an active part in the important public transactions of Edward the Second's reign, were favoured with Earldoms; though, from the limited estates of the Kildare and Bermingham families, the Crown was obliged at the same time to confer seigniories for the support of those honours; but the family of Desmond, though, next to that of Ulster, the most potent in the kingdom, remained incapable, by its minority, to take part in those great transactions, and therefore obtained not similar advancement. However, as soon as Lord Maurice had arrived at an age qualifying him for the discharge of so high and responsible an office as that of Earl at that period is stated to have been, Edward the Third, wishing, as he says in the patent, to honour the person of his beloved and faithful Maurice Fitz Thomas of Ireland, gave to him the name and honour of Earl of Desmond, "*ipsumque in comitem de Desmond præfecerimus et gladio cinxerimus*;" and, in consideration of this, the King now granted him and his heirs male all royal liberties within the county of Kerry, the four usual pleas only excepted. By another instrument, dated on the same day, the King remitted the Earl the rent of two hundred marks, usually called "the rent of Dungarvan," which he was accustomed to pay at the Exchequer for the lands held by himself and by others under him; and in the margin of this record it is called "the rent of the Decies," which appears to have been the principal name whereby the family estates in Waterford were known. Up to this period, the Earl himself and his ancestors received and obeyed all writs of military and parliamentary summons,

Pat. Roll,
T. L.
3 E. 3.

Chief Re-
memb.
Roll, Dub.
1, 2 E. 3.

by virtue of their tenure of the baronies of Ogonnell or Connelloe, Decies and Desmond; and though he and his descendants afterwards continued to be summoned and sit in Parliament under the name of the Earl of Desmond, still it was virtually only in right of the tenure of those baronies, as the dignity of Earl at that period did not vest in its owner a Parliamentary Peerage, unless where accompanied by the possession of proportionate estates. On the 29th of June 1330, the King issued his mandates to the Earl of Desmond and to William de Burgo, Earl of Ulster, declaring he understood that they, with great companies of men at arms, were invading the estates of each other, to the terror of his subjects; wherefore he charged them, under pain of all they could forfeit, to forbear, as he and his Justiciary were ready to hear their complaints, and to shew them full and speedy justice.

In the next year, when the King was sending over Anthony de Lucy as Justiciary to Ireland, he sent writs to those Earls with the other nobility, to assist the Justiciary by their counsel and aid whenever required. But De Lucy, actuated by that policy which has too often since marked the government of his successors, seized on the Earl of Desmond and some others of the nobles, whom he considered favourable to the Irish, and threw them into confinement. That the extensive possessions and unbounded influence of the Desmond family were a principal cause of this proceeding, historians relate; and we might gather that fact from some legal attempts made on the Earl's estates while thus imprisoned. The castle, lordship and demesnes of Dunmark, which he had of the Carreu family, were found by inquisition to belong to the Crown; and we otherwise find his estates diminished. But after being imprisoned in the Castle of Dublin for more than eighteen months, the Earl was liberated *at the supplication of all the Clergy, Magnates, and Commons of Ireland*. And as a proof of the estimation in which this nobleman was held, we find that in a full Parliament held at Dublin in the year 1333, almost every nobleman in the country, including the Earls of Ulster and Ormond, the Lords Le Tuit,

Close
Roll, T. L.
5 E. 3.
p. 1.

Ch. Rem.
Roll, Dub.
7 E. 3.

De Verdon, De Barry, De Rupeforti, Le Poer, De Wellesley, De Berkeley, De Rupe, De Burgo, &c. engaged themselves and their estates as surety for the future fealty of the Earl, and that in future he would be obedient and answerable to the King; and if ever he acted otherwise, those nobles pledged their lands and themselves, corpus pro corpore, to have the said Earl forthcoming within two months after the receipt of the King's writ for that purpose. The Earl of Desmond

Same Roll. also at the same time gave in his hostages at the New Castle in Oconyl, to be delivered to the King; and being brought before the high altar in the choir of Christ Church Cathedral, Dublin, on the 17th of May 1333, signed a declaration in the French language as to his attendance at the next Parliament, and his future good conduct towards the Crown. After being liberated, the King addressed him by writ, to come into England to his aid against the Scotch, who (as he tells the Earl) were preparing to invade England. Afterwards, when Edward was engaged in the French wars, he wrote to this Earl to bring with him to his assistance at least twenty men-at-arms and fifty Hobelarii, well accoutred and furnished for war. In that year he paid £1000 to the Crown, for having a grant to him and Eveline (sister of the Earl of Ulster) his wife, of the wardship and marriage of the estates and heir of James Earl of Ormond just deceased.—One transaction of this nobleman's life is deserving of special notice. It appears that it was represented to the King by his ministers, that the large possessions of such noblemen made them impatient of the lawful control of the Crown, and that to remedy this, an act of resumption, by which the estates formerly granted to them and their ancestors might be retaken into the King's hands, would make them more amenable to his authority: it was also represented that public affairs could better be conducted there by natives of England than by either Irish or English married and having estates in Ireland. The King accordingly issued his orders on those points; and certainly some change was necessary in the latter instance, if his ministers deserved the character assigned them in his letters of the 2nd of June 1336: but the real object of

Scotch
Roll,
T. L.
9 E. 3.

French
Roll, T. L.
18 E. 3.

Pat. Roll,
T. L.
18 E. 3.

those suggestions to the Crown seems to have been well understood: the resumption of estates held by the Anglo-Irish would cause a rich harvest for those needy ministers who were daily arriving in the country; and the exclusion of all who were either Irish by birth, Irish by marriage, or Irish quoad their estates, from the direction of government affairs, would facilitate the appropriation and division of such estates amongst the contrivers of those measures. But this resumption of lands promised little security for property, besides the evident injustice of such an act; and the exclusion from office of all the Anglo-Irish was felt as an unmerited stigma. In consequence, the inhabitants were universally inflamed; and to allay the general feeling, Sir John Morice, as Justiciary, issued his summons for a Parliament at Dublin: here, however, this officer failed, for, though the representative of the King, Sir John had not the confidence and did not command the cooperation of the country. It was on this occasion the Earl of Desmond proved the extraordinary influence which he possessed over all classes in the kingdom:—indignant at such measures, he invited the nobles and people to meet him at Kilkenny; and there, while the Justiciary was unable to procure a sufficient attendance for a Parliament in Dublin, the Earl saw assembled at his invitation the “Prelates, Earls, Barons and Commons” of Ireland, who joined him in a remarkable remonstrance to the King against the proceedings of his ministers, &c. in Ireland, and the violent invasions of the rights of his subjects. A copy of this remonstrance is entered in the Red Book of the Exchequer, where it is called the *Petition sent by the Prelates, Earls, Barons, and the Commons of the Land of Ireland to our Lord the King of France and of England, &c.* It is a curious document, possessing much interest, and some parts of it cannot be here passed over. The remonstrants commence by attributing the diminution of his Royal power to the insolence, excesses, and corruption of bad officers, whose frauds on the Crown are in several instances specified: those ministers embrace many offices through covetousness of many fees, and the remonstrants

Red Book,
Excheq.
Chief Rememb.
Off. Dub.

pray the King that no minister should have more than one office: they next loudly complain of absentees, who set their seigniories and lands to farm; and with respect to the statute of Resumption, they state that in Scotland, Gascony, and Wales, rebellions were raised in times past against the Crown, but they the remonstrants had always deported themselves well and loyally, and had served him and his progenitors against the Scotch, &c. at their own costs, yet they had been misrepresented to the King by those who were sent out of England to govern this country, who had no knowledge of its circumstances, nor means to live except only by extortion under colour of their offices; and that his Majesty and his progenitors, by charters for services rendered, had granted estates to divers persons, which estates were peaceably possessed until now of late that his ministers there, by writs out of England, recalled and repealed such grants for their own singular profit, contrary to reason, as the grantees and their ancestors well deserved the same, and from time to time defended and maintained the country; wherefore they prayed his Majesty to order that they be not ousted of their freeholds without being called in judgment, according to the grand charter. To these and other expostulatory representations the King sent the most gracious answers, accompanied by a writ, in which he recognizes the assembly as his "dear and faithful" the Archbishops, Bishops, Earls, Barons, and the Commons "of the Cities and Boroughs" of Ireland; and after stating that his answers were made with the advice of the "sages de nostre Conseil," he addresses them for their aid towards his expedition into France. By this bold and spirited proceeding the Earl of Desmond rescued his country from the destructive designs of King Edward's ministers. His brother-in-law, the Earl of Ulster, succeeded Sir John Morice in the government; and the policy of excluding natives of Ireland from any share in the management of their own internal affairs was reserved for the wisdom and superior enlightenment of more modern times. But in some years after, Ralph de Ufford, being appointed Justiciary, came to Ireland with a vivid recollection of those proceedings, and a determination

Close Roll,
T. L.
16 E. 3.

to punish the principal author of what to his mind seemed little short of rebellion: accordingly he summoned a Parliament, and the Earl of Desmond not attending, this Justiciary, at the head of a large army, marched into Munster and seized on the estates as well of the Earl as of all those nobles who had become his sureties. But Desmond repaired to England, and laying his complaints at the foot of the throne, was in a short time not only received into favour, but ultimately entrusted by the King with the government of Ireland. The King further by his letters patent restored the estates of all those who had become bound for him while in prison. During nearly the five years in which he was Chief Governor of Ireland, he had the satisfaction of maintaining the most perfect tranquillity in that country; and while thus honourably serving the Crown, he died at the Castle of Dublin in the year 1355. Some years previous to his death he executed a settlement in tail male of all his estates in the counties of Kerry, Limerick, Cork, Tipperary, and Waterford, which appear to have been most extensive; and by this settlement (in which he styles himself "*Comes Desmonia, Dominus Deyse et de Ogonyll, ac Dominus Libertatis Kerrygye,*" and speaks all through in the plural number, as in imitation of the style royal,) we find that he had four sons, viz. Maurice, Nicholas, Gerald, and John; which latter son does not appear to have succeeded to the dignity, as has been by some writers stated.

Patent
Roll, T. L.
29 E. 3.

Chief Re-
memb.
Roll, Dub.
3 P. & M.

The eldest son, Maurice Fitz Maurice, succeeded to the titles and estates, though Gerald, under the above entail, was made first in remainder. This Maurice second Earl of Desmond, by his deed dated at London in the year 1357, at the request of his much honoured lord, Lionel Earl of Ulster, son of King Edward the Third, appointed Geoffrey Seyntloo, Bailiff of his Chief Serjeantcy of Cork, with all the fees and profits to the same belonging; and this appointment his Majesty exemplified under the Great Seal in the following year. He obtained from the Crown a discharge of a certain sum, which his father the late Earl had agreed to pay the King, for having a grant, to the use of Johanna his daughter, of the marriage of James, son and heir of the Earl of Ormond, as

Chancery
Roll, Dub.
32 E. 3.

Patent
Roll, T. L.
31, 32 E. 3.

part of the sum sent over from Ireland was lost at sea. He died however in the year 1367 without issue; and his widow Beatrice, in the year 1368, had royal licence to marry Thomas de Roos, Baron of Hamlake in England.

Patent
Roll, T. L.
32 E. 3.

His next brother, Nicholas, being an idiot, the King, in the 33rd year of his reign, granted the custody of all the family estates to Gerald his younger brother, who is licensed by the same patent to marry Emicia, daughter of the Earl of Ormond.—It is necessary here to notice a principle of the Feudal system which at that period, and for long after, remained in full force. All the grants of seigniories made in Ireland were in consideration of the homage and service which the grantees and their heirs should render to the Crown, such service comprehending military and parliamentary aid towards the defence and preservation of the King and his realm. In consequence, those estates were held to be but stipends or fees assigned for the maintenance of those from whom such important duties were expected; and where the possession of any such seigniories might be considered as tending to the danger of the King or his people, we have instances (as in the case of Castleknock) of the King's seizing the castles, and resuming the estates before granted by him or his predecessors. In furtherance of this system, also, we find many entries on the rolls of King John and his son Henry, of grants occasionally made in money to fortify and repair the castles of the Barons who by war or otherwise were unable to do so themselves; and when any seigniories came into the King's hands by minority, escheat, or absence on the King's business, the care, defence and munitioning of them were duties assigned to the King's Justiciary or his Lord Marshal, as appears in various entries on the same rolls. From these circumstances it must be evident, that the defence and maintenance of the seigniories granted to the Barons, and by means of which their services to the Crown were to be rendered, were duties understood and imperative; and that they were so considered, abundant records testify. Thus, in the 2nd of John, we have his writ wherein he commands those holding estates in the Marches in Ireland to

Charter
Roll, T. L.
2 John,
p. 1.

strengthen their castles against the feast of St. John, so that damage may not arise to his realm as theretofore ; otherwise he will resume those estates, and give them to others who will fortify them. Under a similar threat, the citizens of Dublin were ordered to fortify that city, which they held of the King ; and in the year 1220 it was a matter of grace shewn towards the King's Marshal of Ireland, that his lands were not forfeited and seized into the King's hands for his neglect in leaving them unfortified. This long continued to be an undisputed prerogative of the Crown ; and we have several writs of King Edward the Third, ordering his Justiciary and officers to seize into his hands those estates which were left unfortified, and to apply the profits thereof to their strengthening and defence for the safety of his dominions. One of those mandates issued to the Archbishop of Dublin, who leaving Castlekevin and others his fortresses undefended, to the damage of the King and of his people, was told that such would be seized on, and their profits applied as the safety of the country required. In the year 1356 the King commanded Maurice Earl of Kildare to strengthen and maintain his possessions at Kilka, Rathmore and Ballymore, under penalty of forfeiting the same, and all other estates granted to his grandfather, who obtained the Earldom ; and in a few years after, Sir John Wogan, who withdrew to his estates in Wales, and left his seigniory in Ireland undefended, by which the people of that country, *who should be protected by his aid and counsel*, were endamaged, was several times forewarned, under penalty of forfeiture, to return by the King, who at length ordered the sheriff to proceed to the seizure of such estates. It is unnecessary to adduce further proofs on this point, as it is held to have been a settled principle of the Feudal law ; and we shall now shew its application to the present subject. The Baronies of Ogonnell, Decies, and Desmond, were the inheritance of the Lord Nicholas the idiot ; and as out of those baronies the usual military aid and parliamentary counsel for which they had been originally granted were due to the Crown, so when those duties ceased to be rendered by neglect, absence, or

Charter
Roll, T.L.
6 John.

Chancery
Roll, Dub.
29, 30 E.3.

Chief Re-
memb.
Roll, Dub.
41, 42 E.3.

Chief Rememb.
Roll, Dub.
33 E. 3.

Pat. Roll,
T. I.
41 E. 3.

Chief Rememb.
Roll, Dub.
31 E. 3.

Chancery
Roll, Dub.
5 Ric. 2.

incapacity either natural or civil, the possession or care of these estates reverted to the King, who could legally select a competent person for their wardship, and for the discharge of the duties incident to the same. In the instance before us, King Edward, as has been mentioned, granted the estates, during Lord Nicholas's incapacity, to his brother Gerald, and in the same year issued a writ of parliamentary summons to him as Gerald son of Maurice, late Earl of Desmond, by which he was bound to attend and render that counsel which was due out of the seigniories. This occurrence in the Desmond family it seemed necessary to explain, as there are other instances in the Irish Feudal Peerage, even of much later date, where, owing to natural or civil incapacity of the heir, the Crown made selections of a similar description; and such instances have been considered, by persons not familiar with our ancient records, or with the principles of the Feudal system, as arbitrary acts of the Crown. Lord Gerald continued virtually Baron of Ogonnell, Decies and Desmond, and discharged the duties incident to such until the death of his elder brother Nicholas, when he became Earl of Desmond, and as such, in the year 1367, was appointed to the government of Ireland by letters patent, with full power to grant charters and pardons, &c. In the year 1374 he had special writ of summons to the Parliament held at Dublin, as he had also to that held in Dublin in the year 1376; where not being present, he was amerced, as an Earl, in the sum of £100 for absence. In the first, fourth, and fifth years of Richard the Second, he was specially summoned to the Parliaments then convoked; and in the year 1382, on the unexpected death of Edmund Earl of March and Ulster, who was Lord Lieutenant of Ireland, the Chancellor and Chief Judge of the King's Bench summoned the Prelates, Peers, and certain Commons at Cork, to choose a governor pursuant to the statute of Henry Fitz Empress and the usage which had prevailed in such cases. On this occasion, the assembly sought of the Earl of Desmond to accept of the lieutenantry or government of the country; but the Earl declined, alleging that he was engaged in the defence of the Marches, and could not leave

his own estates, as he should do, did he accept this great trust. When King Richard the Second arrived in Ireland, accompanied by the Duke of Gloucester, the Earls of Nottingham and Rutland, Thomas Lord Percy, and other nobles, with an army of four thousand men at arms, and thirty thousand archers, the Earl of Desmond's unbounded influence over the natives, and close connection with their chiefs, seemed much greater than a subject should possess consistently with those views for the reformation of Ireland which the King's advisers then entertained: it was also urged that many estates formerly belonging to those English families who had long before retired wholly into England, were usurped not only by the natives but also by the more potent nobles; and in the names of those English Barons who had writs of protection as accompanying the King into Ireland, we trace the representatives of several such families. Hence, to gratify those nobles, and to diminish the great possessions of several of the Irish lords, claims to extensive seigniories (as in the case of the lordship of Idrone) were urged with the approbation of the Crown, and grants of estates with extravagant jurisdictions (as in the case of John de Bello Monte, grandfather of the first English Viscount) were conferred on those who had joined the King in his expedition. It was on this occasion that we find Richard the Second issued his writ to Gerald Earl of Desmond, stating, that it appeared of record that his royal progenitors had been seised of the castle, manor, and honour of Dungarvan, as parcel of their demesne; and that he, the Earl, having possessed the same, his Majesty enjoined him on his fealty and allegiance to appear before him in proper person at the Purification, in whatever part of Ireland the King might then be, in order to shew what right or interest the Earl had in such estates. The result of this proceeding is not known; but immediately after, there is a curious address from the Governor and council to the King in England, by which it appears that the heiress of one of the most respectable English families in the Pale was then living with the M^cMorogh, or chieftain of the Kavanagh family, as *his wife*; and that her estate had been seized on by the Crown (as a forfeiture for

Pat. Roll,
T. L.
18 Ric. 2.

Chief Re-
memb.
Roll, Dub.
18 Ric. 2.

Original,
Brit. Mus.
B. xi. Cott.
MSS.

that fact, it is distinctly stated in another record); and the address states that M^cMorogh threatened, until this lady's estates were restored and the arrears of his annuity fully discharged, he should never cease war, but would join with the Earl of Desmond against the Earl of Ormond, and afterwards return with a great force out of Munster to ravage the country: the address also declares, that the Butlers, the Powers, the Geraldines, Berminghams, Daltons, and other English families, had revolted and were destroying the poor lieges. From such facts it may be inferred, that the policy of King Richard and his advisers while in Ireland was not productive of much satisfaction amongst this or any other of the more ancient and potent of his English subjects there. Gerald Earl of Desmond died soon after, leaving by his lady Emicia two sons, John and James, and a daughter, Johanna.

Chief
Rememb.
Roll, Dub.
15, 18 R. 2.

The elder son, John, became Earl of Desmond, and before his father's death was styled "John Dessemond, Chivaler," and "John Fitz Geraud, son of the Earl," &c. He died in the year 1399, as appears by King's writ, leaving a son and heir, Thomas.

Chancery
Roll, Dub.
7 H. 4.

This Thomas being a minor, in 1402 the King granted the wardship of his estates to James Earl of Ormond; but in 1406 the King granted him a pardon for all offences, and also a special livery of all his castles, lordships, &c. with power, notwithstanding his being still a minor, to appoint seneschals, justices and chancellor, treasurer, sheriffs and other officers within the same. Accordingly we find a precept from him to his treasurer, bearing test of William Fitz-Gerald, his seneschal, at Tralee in the year 1411, ordering him to collect and levy several sums amounting to nearly £700, being the profits of assizes held in his court of Kerry. On the 12th of September 1414, the King granted Earl Thomas licence to endow the Abbey of Kentsham in England with the advowsons of the church of Dungarvan and the chapels belonging to the same.—An event in this Earl's life throws some light on the character of the Irish, and the opinion they entertained of nobility at the period. Benighted while hunting, Earl Thomas took shelter in the house of one of his

Chancery
Roll, Dub.
32, 33
H. 8.

tenants, near the Abbey of Feale; and being fascinated with the beauty of his host's daughter, Catherine M^cCormac, he soon after married her. This imprudent match, however, caused such displeasure throughout the country, that his friends, followers and tenants abandoned him in disgust, and his uncle James by their aid expelled him from the estates, and made him surrender the Earldom: after which the unhappy Earl retired to Rouen in Normandy, where he died in the year 1420.

This uncle's forcible succession to the title was not however immediately recognized by the Crown, as in a curious letter from John Marshal to John Lord Furnival, who was Justiciary of Ireland between the years 1412 and 1416, he is merely called James of Desmond, and appears from Fitz Patrick the chieftain of Ossory's offer of assistance against him therein mentioned, not to have then stood high in the favour of Government: though he afterwards submitted, still in 1420 he is only styled in a King's writ "James son of "Gerald late Earl of Desmond." But in 1422 we find the Justiciary was allowed twenty marks for expences incurred in entertaining messengers from him and others; and in the same year it appears he had already made his peace with Government, by whom he was fully recognized as James Earl of Desmond, and distinguished by some marks of favour. This was the result of important public services which he rendered, by bringing five thousand horse and foot (as is stated in the King's commission) out of Munster against O'Connor and Bermingham, who with their forces were ravaging a considerable portion of the Pale: in consideration of which, and the excessive losses which he sustained, his Majesty granted him the command of the castle of Limerick; and the inhabitants of Meath voted him a subsidy, which was ordered to be assessed and levied by the King's commissioners. Earl James received many distinguished favours from the Crown; and on the 11th of August 1445, his Majesty, considering the labours, pains and care which his cousin James Earl of Desmond had devoted to the preservation of his royal rights in the counties of Waterford, Cork, Limerick and Kerry, and the

Original
Letter,
T. L.

Chancery
Roll, Dub.
1 H. 6.

Chancery
Roll, Dub.
1 H. 6.

Patent
Roll, T. L.
23 H. 6.
p. 2.

Chief Re-
memb.
Roll, Dub.
31 H. 6.

Stat. Roll,
Chan.
Dub.
3 E. 4.

great distance between them and those places where parliaments were generally theretofore accustomed to be held, as also that from the strength of the King's enemies dwelling therein, his said cousin to such parliaments without the greatest danger was unable to come, granted by the advice of his counsel and on the petition of the Earl, that he the said James during life, when unable well and conveniently to attend such parliaments, might be able to send an authentic proxy having full and sufficient powers to appear and act for him therein. Whatever historians may have said as to the effect of this indulgence, which appears to have been sought and obtained by others of less eminence more generally than they were aware of, it is evident that the Earl himself was the first to experience its injurious effects; for, soon after he thus was licensed to withdraw himself from the affairs of state, John Talbot Lord Shrewsbury, while Lord Lieutenant, acquired the Barony of Dungarvan by grant from the Crown, although this ancient honour had been so long the inheritance of the Earl and his ancestors. In the same reign, a record called the "Rentyle de O'Connyll" was formed to shew the extent of the estates and services lying within that seignior or barony; and many items in this rent-roll, particularly the ores of mines then wrought, &c. must appear matters of surprise to those who knew the state of that country at more modern periods. Earl James had two sons, Thomas his successor, and Sir Gerald, on whom was settled the Lordship of the Decies.

Thomas, the elder son, succeeded as Earl of Desmond, and in 1463 was created deputy of George Duke of Clarence, Lord Lieutenant of Ireland; as such he presided at the parliaments held in the 3rd of Edward the Fourth; when, by a statute passed, the castles and towns of Carlow, Ross, Dunbar's Island, and Dungarvan, were placed under his care and defence for sixty years, in consequence of their being wasted and ruined by the negligence of those lords to whom they belonged; and he was also empowered by the same authority to appoint yearly two men to receive the customs of Dungarvan, and to apply them for the building and repair of the walls of that

town. By another statute, which recites that the Lordship of Dungarvan was of old the greatest and most ancient honour in the land, it was enacted for the relief and succour of the same, now almost destroyed through default of English authority, that the portrieve and commons of that town, their heirs and successors, should enjoy all such grants, liberties, &c. as the tenants and inhabitants of the honour of Clare in England; and that the said portrieves and commons should have the customs of all merchandize bought or sold within their franchises, like the mayor and commons of Bristol, but that the profits thereof should be annually expended on the walls and other defences of the town, under the superintendence of the Earl and his heirs. By this means, Dungarvan was brought once more under the authority of the Desmond family, notwithstanding the grant made, as already mentioned, to the Earl of Shrewsbury, whose negligence is alluded to in the statutes. On the 25th of August 1464, the King by letters patent granted to the Earl a large annuity chargeable on the principal seigniories belonging to the Crown within the Pale, and this grant was confirmed by Parliament. His Lordship in the year 1464 founded a noble establishment called the College of Youghall, which he endowed with such valuable possessions, that after falling in among the acquisitions of the all-grasping Richard Boyle, its history was much involved in the subsequent fate of Lord Deputy Strafford. But in 1467 John Tiptoft, Earl of Worcester, was appointed to the government of Ireland, and soon after his arrival had an act passed whereby the Earl of Desmond, the Earl of Kildare, and Edward Plunket, Esquire, were attainted for their alliances, fosterage and alterage with the King's Irish enemies. With reference to this statute, it must be confessed that many laws from time to time were passed against alliances, marriages, &c. with the natives; but within the pale such laws had not been uniformly observed: immediately outside that district the ecclesiastical and lay corporations, the nobility, and even commoners, had charters continually licensing them, and that for public advantage, to treat, traffic, and enter into alliance with the

Ch. Rem.
Roll, Dub.
13. 14.
Eliz.

Stat. Roll,
Chan.
Dublin.
7 E. 4.

Irish: while in the remoter parts of the kingdom, particularly in the South, where the Desmond estate lay, such law, if ever enforced, had become wholly obsolete at the period we write of. Still however, and though the Earls of Desmond had long thitherto preserved the King's authority in the greater part of Munster solely by forming connections with the leading Irish families, this statute was strictly enforced against the Earl, who, on repairing to Lord Tiptoft to explain his conduct, was arrested by that nobleman, and on the 4th of February 1467, to the astonishment of all the nobility, was executed at Drogheda, where his remains were interred in St. Peter's Church. It is but justice to the memory of Sir Henry Sydney to add, that by his order, in the next century, the monument erected to the memory of this martyred nobleman was removed from Drogheda to Christ Church Cathedral in Dublin, where it may yet be seen, although mistaken by many for that of Strongbow. Lord Tiptoft was interested in the lordships of Inchiquin, Youghall, and other extensive estates which lay within, or were now considered as part of, the seigniories of the Desmond family: and which, while their power and influence prevailed with the natives, his Lordship, like his ancestors, residing out of the country, could derive no benefit from: on this account, Tiptoft had personal motives for gratifying the resentment of King Edward's Queen, through whose influence he obtained the government of Ireland. And it appears that the Earl of Desmond, who faithfully exerted himself and attended Edward the Fourth during the contentions between the Houses of York and Lancaster, advised the King not to marry this Queen, who was then the widow of Sir John Grey: Edward, however, married her; but, in some trifling altercation, afterwards declared, had he "taken Cousin Desmond's advice, her pride would have been more humbled." This observation, at the Queen's request, the King subsequently explained, thinking the Earl, then Deputy of Ireland, was not within her power; but she in the course of a little time had Desmond removed, and Tiptoft Earl of Worcester substituted in his place: and when the above

Chief Rememb.
Roll. Dub.
7 Ric. 2.
43 E. 3.

statute was passed, it is positively stated that she procured the warrant under Privy Seal for the unhappy Earl's execution. This proceeding had its natural effect: the Earl's five sons, then extremely young, and all his kindred, comprising the principal families of the South, immediately revolted, and marched with their forces into Leinster; but the Earl of Kildare, proceeding to the King, exposed the injustice of the late transactions; and in consequence Tiptoft was recalled, and subsequently suffered that punishment which he inflicted on the Earl.

James, the eldest son, succeeded to the Earldom, and, as tokens of the King's favour, received grants in confirmation of his estates. It is remarkable of this Earl, that he was not married until some years after his father's execution; and so little effect had that extraordinary catastrophe on his mind, that we find the wife whom he then selected was Margaret daughter of O'Brien Prince of Thomond. By this lady he had issue one child, Johanna, who became the wife of Maurice Baron of Fermoy.

He was succeeded by his next brother, Maurice, who enjoyed the titles and estates. It should be observed here, that this is the second instance in the Desmond family of that usage, now considered peculiar to Ireland, whereby those Feudal dignities were invariably inherited by the heirs male to the exclusion of heirs female more nearly allied in the line of representation. Maurice Earl of Desmond, Baron of Decies and Desmond, died in the year 1371, leaving an only daughter who had issue, but who never inherited those Feudal dignities, which devolved on the Earl's brother as next heir male: in the present instance, Maurice succeeded to the Earldom and to those Baronies, though his elder brother's daughter, the above Lady Johanna, was then alive and married, and should according to the present usage of England have inherited.—But to return to this Earl: he in common with almost all the nobility espoused the cause of Perkin Warbeck; and having afterwards been taken prisoner, he was pardoned by King Henry, who, on the 22nd of August 1497, issued special letters patent for that purpose, forgiving

Patent
Roll, Rolls
Chapel,
Lond.
12 H. 7.

the transgressions of the Archbishop of Cashel, the Bishops of Waterford, Lismore, Cloyne and Cork, Maurice Earl of Desmond, Edmund Baron of Clannoo, Thomas, John and Gerald of Desmond, as well as other kinsmen and friends of his Lordship's family. He died in the reign of Henry the Eighth, and was succeeded by his only son,

Original,
Rolls
Chapel,
London.

James Earl of Desmond, who enjoyed the title but a few years, having died in the year 1529. This James had a daughter, Johanna, married to the Earl of Ormond; and notwithstanding she had issue, and that her father had sisters, as appears from a letter written by Sir Pierse Botiller to "myn especiall good Lord Thomas Erle of Ormonde, Chamberlayn with the Queen's good grace" in England, either of whom, or their issue, should have become heiress in the line of representation; yet the Feudal dignities, with the Earldom, again devolved on and were inherited by the next heir male, who was Thomas, that earl's uncle.

Original
Deeds in
possession
of H. Vil-
liers Stu-
art, Esq.
M.P.

Thomas Earl of Desmond, in the year after his succession, by deed confirmed the country of the Decies to his kinsman John Fitz Gerald, and Gerald his son, for ever; and soon after died in the year 1534, when the titles and estates descended to his grandson James.

This James Earl of Desmond died in the year 1536, on whose death his great-uncle John, son of Lord Thomas, who was executed at Drogheda, inherited the honours, notwithstanding that many intermediate coheirs then existed. But he inherited according to the general usage which seems to have obtained as to dignities in Ireland, and died at a very advanced age, having had several sons.

Thomas, the eldest of these sons, was dead before the Earldom came to his father, leaving issue two daughters, neither of whom, nor their issue, derived any thing by their coheirship, as the titles and estates devolved on the second eldest son, James, who thus became Earl of Desmond. This nobleman revolted against the state; wherefore we find the Earl of Ormond commissioned by the King to recover from him the honour and castle of Dungarvan, which was soon after annexed to the Crown by statute passed in the year 1537.

In his revolt he was strengthened by his friends and connexions, not only in the South but in Leinster; and a glance at the history of one family who joined him on that occasion, it is hoped, will here be excused.

Amongst the knights who accompanied King Henry the Second into Ireland was Paganus Haket, who obtained a large seigniori between the towns of Carlow and Baltinglas, one portion of which is still known by the name of the parish of Haketstown. He witnessed the charter granted by Tyrrel Baron of Castleknock to the Priory of Kilmainham, as well as other important public endowments, and died leaving two sons, Reginald and William, one of whom became surety to King John in the year 1215, for Walter de Riddlesford, Baron of Castledermot and Bray. The same King also confirmed to them estates in Drumlore, Clondermot, &c. for which they had mandates from Henry the Third in the year 1219, ordering them not to be impleaded until his Majesty arrived at full age. That portion of the estate called the lordship of Kinneagh, was inherited by Robert Fitz Haket, who presented Thomas de Chedd to the advowson of the church there, as patron of the same; and this lordship and advowson became the inheritance of Philip de Riddlesford, who had married the coheiress Mariana Haket. In 1280, Thomas Haket sought the lands of Rathloskin, in the same neighbourhood, as the estate of his family during the four preceding generations: and on the death of this Thomas, his widow Alicia sued the Baron of Castledermot, guardian of the person and lands of Margery daughter of Robert Fitz Haket, for her dower in Kinneagh, Killegan, and elsewhere. Robert Haket succeeded; and, as holding a lordship in capite under the Crown, King Edward issued writs to him, the Earls of Ulster and Kildare, and other the Barons of Ireland, requesting their concurrence with what the Justiciary and Treasurer should propound to them on his Majesty's behalf. William Haket was amongst those nobles, who, on going over to assist the King against the Scotch in 1302, obtained writs of "Quia profecturus est;" and afterwards the Crown entrusted him with the care and defence of the fortress called

Patent
Roll, T. L.
17 John.

CloseRoll,
T. L.
3 H. 3.

Chief Rememb.
Roll, Dub.
8, 9 E. 1.
Chief Rememb.
Roll, Dub.
31 E. 1.

CloseRoll,
T. L.
30 Eliz. 1.

Chief Rememb.
Roll, Dub.
3 E. 2.

Newcastle Mac Kinegan. In the year 1322, King Edward sent him, the Earls of Kildare, Ulster, and Maurice Fitz Thomas, first Earl of Desmond, pressing letters from York to attend him with military forces against the Scotch : and in three years after, other writs were sent to William Haket, the Earl of Kildare, and several noblemen, for their aid against the King of France. Lord William's son and heir was John Haket, to whom a writ of Military summons was issued by Edward the Third, in the year 1335, to attend him into Scotland with men and arms. The descendants of this William continued Feudal lords of Hacketstown, and the neighbouring districts in the counties of Carlow and Kildare, for the two following centuries, and until the revolt of their kinsman, James Earl of Desmond, in the reign of Henry the Eighth, as already mentioned, when the Crown by charter authorized the Earl of Ossory to recover or reconquer all lands within that district, as also the castle of Dungarvan from the Earl of Desmond. Long allied to the Desmonds, to whom the Earl of Ossory was so hostile, the Hacket family immediately felt the effects of the Earl's commission, and were in a short time obliged to hold their seigniorship under him, instead of holding of the Crown in capite, as they had done for centuries. This change, the circumstances of which, and of Lady Magdalene Fitz Gerald's marriage with the Lord Haket, tradition still minutely details, was but the precursor of others; and during the Earl of Desmond's wars, we find the name of his ally and relative Theobald Haket returned by Berkley to Queen Elizabeth amongst those leaders who had been "cut off" as enemies to her authority. Lord Peter Haket was one of those who gave in their adhesion to the unhappy Gerot Earl of Desmond, and whose unfortunate connexion with that remarkable nobleman exposed themselves and their families to the most rigorous penalties of the law. Still however a remnant of their ancient estates remained in the family; and notwithstanding what they had previously endured, principally from favourites of the Crown, this remnant they sacrificed in defence of the rights and hereditary succession of the Kings of England. James Haket, who

CloseRoll,
T. L.
15 E. 2.

Gascony
Roll,
T. L.
8 E. 2.

Scotch
Roll, T. L.
9 E. 3.

State
Papers,
temp. Eliz.

Informa-
tion of M.
Hackett,
Esq.

adhered to James the Second, was father of Peirce, from whom descended the late Peirce Hacket, Esq. his great grandson, who was father of Michael, now of Brooklawn, Esq. Thomas late a surgeon in his Majesty's Navy, John a captain and meritorious officer in the Royal Navy, Harry, and Peirce. In the most ancient collection of heraldic emblazonments now remaining in Ireland, namely, in the collection of Mr. Robertson of Dublin, the arms of the family of Hacket are to be found ; but there is no tradition preserved explanatory of the crest, which by that gentleman's valuable manuscripts appears to have been three hundred and eighty years ago, and is at this day, *a spread eagle issuing from a ducal coronet surmounted by a mitre proper.*

But to revert to Earl James : he afterwards submitted to Lord Deputy Grey, and waited on the King in England, by whom he was well received, and advanced to the important office of Lord High Treasurer. He was present in the Parliament which recognized Henry the Eighth as King of Ireland, and signed the certificate sent over on that occasion with the letters "I of D" on the same line with the signature of the Earl of Ormond. To him was committed the lordship of Honagh in the county of Tipperary, as fully as the Baron of Ibrackin held it ; and for his brother Maurice he obtained the estates of the Friars Preachers in Youghall. On the 23rd of February 1544, Henry the Eighth wrote a letter to the government of Ireland, to send him over three thousand men, of whom he wished one thousand to "be all goners, or at least as many of them as may be gotten," as his Majesty expresses himself determined to advance that summer with an army royal against the French king, and states, that for the better expedition of such his pleasure, he directed letters to the Earls of Ormond and Desmond. On the 25th of October 1553, Queen Mary ordered a grant to be made to him and Dame Katherine Butler his wife, and their heirs male, of the lordship of Dungarvan, &c. with all the lands and fishings thereto belonging. He died soon after, leaving the titles and estates by will to his second eldest son, Gerald.

Though his eldest son, Thomas, was living, and contentions

arose between those sons, yet the Crown favoured the pretensions of the younger, and he was summoned to and sat in Queen Elizabeth's Parliament of 1559 as Gerald Earl of Desmond. He was the unhappy nobleman, that "*ingens rebellibus exemplar*," whose name is so frequently mentioned in the historians of Elizabeth's reign. By the Statute 28th Eliz. ch. 27, he was attainted, and all his estates, amounting to nearly 800,000 acres, in several counties, became forfeited to the Crown. He had a son and heir, James, and several daughters.

James, the only son, in consequence of his father's rebellion, was given to the Queen, in the year 1584, as an hostage for the Earl's future allegiance: in this capacity he was confined in the Tower of London for many years, and ultimately was released only under the following circumstances. His father's elder brother, Thomas, who should have succeeded to the title, had taken no part in the Geraldine wars; but dying in 1595, left a son, James, who claimed the title and estates, and waged war for some years against the Queen. To withdraw from this James the friends and followers of his family, the Queen deemed it advisable to release from confinement the last Earl's son and heir, and send him into Ireland as Earl of Desmond. For this purpose her Majesty, by letters patent dated the 1st of October in the 42nd year of her reign, (in which, though having possession of all the family estates, the Queen boasts that she had brought up this son and heir at her own expense,) created and restored the said James to the Earldom of Desmond, to hold the same as fully as Gerald his father, with the title of Baron of Inchiquin, to be borne by his eldest son and heir apparent: to hold to the said James Earl of Desmond and the heirs male of his body for ever. Earl James proceeded with this patent to Ireland; but his mission there being unsuccessful, he returned to England, where he soon after died without issue. It is worthy of remark, that this patent took effect, although no act was passed to do away the attainder created by the Statute 28th Eliz. already alluded to: and this instance is not singular, for by an act passed in the 28th of Henry the Eighth,

Gerald Earl of Kildare, his son and heir Thomas, and others, were attainted, and their estates thereby forfeited; yet, by letters patent dated 13th May 1554, Gerald, son and heir of Thomas, was restored to blood, and subsequently to all his paternal estates, and sat in the Parliament of 1559, without any statute passed for the purpose. There are other cases of a similar description, from which it might be inferred, that the prerogative of the Crown was greater, or less restricted in Ireland, in this as in other instances, than it appears to have been in England.

James, the elder brother Thomas's son, still continued to claim the title and estates, and to render the South one scene of war. Amongst other things he stated in his letters to foreign potentates, that Queen Elizabeth's government in Ireland was "such as Pharaoh never used the like," and "that Nero in his time was farre inferior to that Queen in cruelty;" and for these enormities and his rebellious proceedings, he was ultimately taken prisoner, tried, and convicted in the year 1601, when he was sent into England, and after some years' imprisonment in the Tower, died there in 1608. His next brother, John, with his son Gerald, fled into Spain, where they were successively styled Earls or Counts of Desmond, and died in the reign of Charles the First. Thus ended, says Hooker, "a noble race, and an ancient family, descended out of the loins of princes." Still, however, one branch remained, and fortunately preserved one of the most ancient seignories formerly belonging to the House of Desmond: this was the family of the Decies, whose descent is as follows.

It appears that Gerald, next brother to Earl Thomas, who was so unjustly executed at Drogheda, and whose monument is now in Christ Church Cathedral, Dublin, had issue a son and heir, John, who was father of Sir Gerald Fitz John; and in the year 1530, Thomas then Earl of Desmond, by a writing duly executed, pursuant to an amicable composition entered into for the purpose, confirmed to this John (who is therein recognized as grandson of the late Earl) and his son Gerald all the country of the Decies for ever. Under this deed,

Original
at Druma-
na Castle.

which passed the territory of the Decies as fully as the Earls previously enjoyed it, or according to that interest which feudal grants in the time of King John conferred, John Fitz Gerald died seised of the seigniory which was inherited by Sir Gerald Fitz John, who, marrying Ellice daughter of the Earl of Ormond, had issue three sons, Sir Maurice, James, and Gerald. The eldest son, Sir Maurice, married Ellen daughter of John Earl of Desmond; and residing at his castle of Drumana within the Decies, Queen Elizabeth, on the 27th of January 1569, by letters patent created him Baron of Drumana, with seat and voice in all Parliaments, &c. to hold the same to the said Sir Maurice and the lawful heirs of his body begotten and to be begotten. In four days after the above creation, her Majesty, by other letters patent, advanced his Lordship to the estate, degree, dignity, and honour of Viscount of the Decies, to hold such Viscounty with seat and place in all Parliaments, to the said Lord Maurice and the lawful heirs of his body begotten and to be begotten. His Lordship however, on the 28th of December 1572, died without issue, and the titles of Baron of Drumana and Viscount of the Decies so became extinct. But his brother, Sir James Fitz Gerald, succeeded to the estates, being found by inquisition to be the next heir to the Viscount who had died seised of the barony of Cumragh, the lordship of Athmean, the barony of Attmean, the barony of Rossmire, and other estates in the county of Waterford. Such estates, however, appeared too valuable to escape the rapacious views of that extraordinary description of government which then prevailed in Ireland; accordingly, notwithstanding that this branch of the family persevered in a zealous adherence to Queen Elizabeth's authority, we find an attempt was made to wrest from them their ancient possessions, and to overwhelm them in the misfortunes of the other members of the House of Desmond: this will be found by a written proposal to seize on the Decies estates which was sent into England, and which still remains among the archiepiscopal manuscripts at Lambeth Palace. Enough, however, had already been done towards the family, and perhaps on this account the proposal

Original
Patent un-
der seal at
Drumana
Castle.

Original
Patent un-
der seal at
Drumana
Castle.

Inquisi-
tions,
Chief
Rememb.
Off. Dub.

was rejected. Sir James's son Gerald dying without issue, the Decies was inherited by John Fitz Gerald, son of the Viscount's younger brother Gerald; and he having married the daughter of the White Knight, had a son and heir, John Oge, Lord of the Decies, who was knighted by Deputy St. John, and died in the year 1626, leaving a son and heir, Gerald Fitz John. When the Civil and Down Surveys (the records of which are now preserved at Headfort House and Dublin Castle) had been completed, the Barony of the Decies was found to contain about one hundred and twenty thousand acres of land; of these, the larger proportion had been in possession of the families of Sir Nicholas Walshe, Sir Thomas Sherlocke, Sir Peter Aylwarde, Sir Nicholas Osborne, and many others of equal respectability, deriving under conveyances from the Lords of the Decies; but even at that period about thirty thousand acres appear as not being held at chief-rents under the family, but as being retained in the immediate occupancy, as demesne or otherwise, of this Sir Garret Fitz Gerald, who is styled in those records "Lord of Decies." Sir Gerald died in 1643, leaving a son and heir, Sir John Fitz Gerald, Lord of the Decies and of Drumana. This Sir John sat in the first parliament after the restoration of King Charles, and was married to Catherine daughter of the Baron of Curraghmore, on whose death he married Helen daughter of the Earl of Clancarthy, by the former of whom he had an only child, Catherine, who became heir to the lordship of the Decies. Lady Catherine was married to Lord Edward Villiers, eldest son and heir of George Viscount Grandison, who dying in the lifetime of his father, King William, by patent dated 6th January 1699, granted that his widow, the Lady Catherine, should have the same titles and precedence as she should have enjoyed had her husband survived his father, the Viscount Grandison. Lady Grandison soon after married Lieutenant General William Stuart, Commander in Chief of all the Queen's forces in Ireland, and one of the Privy Council, but by him had no issue. Her son and heir by the first husband was John Viscount Grandison, who was created Earl Grandison by King George the First, and he having

married Frances sister of the Viscount Falkland, had issue James Fitz Gerald, William, Catherine, Elizabeth, and Frances. Of these, Lady Elizabeth was the survivor; and becoming heir apparent of her father John Earl of Grandison in the Decies and other his estates, King George the Second, by patent dated 10th April 1746, created her a Peeress by the title of Viscountess Grandison of Dromana, to her and the heirs male of her body. King George the Third further advanced her Ladyship, on the 19th February 1767, to the titles of Viscountess Villiers and Countess Grandison of Dromana, entailing the same on her and her heirs male for ever. Her Ladyship's son and heir was George Earl of Grandison, who marrying Lady Gertrude Conway, daughter of Francis Earl of Hertford, had issue an only daughter and heiress, Lady Gertrude Amelia. In June 1802, Lady Gertrude Amelia Villiers was married to Lord Henry Stuart, son of the Most Noble the Marquis of Bute, and by that marriage her eldest son and heir was Henry Villiers Stuart, of Drumana Castle, Esq. M. P. for the county of Waterford, who now, as lineal heir of his ancestor Gerald, second son of James Earl of Desmond, enjoys the lordship of the Decies. This district, it should be added, is at present held according to the comprehensive language of the Feudal charters above cited, as during a period of 615 years, during which time Mr. Stuart's family have enjoyed it, there was no resumption or other proceeding on the part of the Crown, by which the rights originally acquired therein could have been reduced within the limited terms usually found in more modern grants.

So much and indeed so important a part of the history of the House of Desmond has been written by the over-zealous officers of Queen Elizabeth and her successor, that the name of that illustrious family is generally associated with those of treason and revolt; but the history of countries or of families would yield little advantage to mankind, if posterity did not occasionally derive other knowledge from its perusal than the partial opinions of angry and interested cotemporaries. The history of the Earls of Desmond therefore, even as so unfavourably written, affords to the less partial readers of

modern times subjects of deep reflection in a work relating to early laws and rules of government, and merits at least a passing observation. We want not documents to shew that the first settlers in the English Pale of Ireland, or in the districts surrounding the metropolis, imitated the policy pursued by the Normans for some time after their arrival in England: they excluded the natives from their institutions, forbade all social intercourse, and proscribed their language, laws, and customs; in consequence those districts continued to be the scene of internal warfare during four centuries, and nothing but payments of annual fees, or as they have been called "black rents," to the principal native chieftains, preserved the English interest within that time from total extinction. On the contrary, the family of Desmond, after settling in a remote part of the kingdom, adopted the policy of some of the most enlightened governments of Europe, and indeed that policy which the Normans with such advantage ultimately followed in England, though it required the experience of ages before we were induced to vouchsafe its extension to Ireland. The Desmond family intermarried with the native nobility, encouraged social alliances between the settlers and aborigines; and blending their own with the native customs and institutions, their foreign descent and recency of arrival were soon forgotten. Hence, while discharging all the feudal duties, which they owed as great lords, to the Crown, their rank and authority as native princes or chieftains amongst the Irish was never disputed; and while other parts of the kingdom were disobedient to, or in arms against the King of England, almost all Munster, comprehending one-fourth part of the island, however disturbed by local contentions, was kept attached to the Crown through this great connecting link, the House of Desmond. Such was their influence, such their importance to the Throne, at the very time that the Kings of England were sending writs to Ireland for assistance against the aggressions and rebellions of the Welsh, and to resist the threatened *invasions* of the French, the Castilians, and even the Scotch! But in after-ages, when England was freed from those apprehensions by

giving up her precarious and long-contested dominions in France, and by appeasing the nationality of Wales and Scotland, she visited Ireland in a spirit of unjust and barbarous reform. England, without arts or manufactures sufficient for a state of society then outgrowing her feudal system, viewed the sister island as a convenient depository for the more adventurous and less tractable portion of her population: besides this inducement, the independence of an half-subdued people, who still in a great measure preserved their original laws, habits and customs, as well as the stubborn spirit of those Anglo-Irish nobles who had blended with them, were considered derogatory to the increasing power of the English nation, and seemed to call loudly for reform. With this view reformation was commenced in Ireland by men who, in whatever estimation they may have stood at home, appear for the most part to have left justice and common sense behind them in England: every thing Irish must be bad and therefore abolished—ancient and long-vested rights were swept away, to make room for a better order of things—national feelings (perhaps prejudices, which still so much govern mankind) were trampled on; and there is sufficient left us on record to state, that in the full spirit of those changes, even extermination was contemplated. In this course of government, which with few intermissions was vigorously pursued for a century at least, the nobles who were Irish by birth, descent, connexions, and feelings, could scarcely escape; and to retain the favour of the Crown of England during that period, perhaps one of the least degrading services which they were required to perform within their districts was to *execute to death as that proclamation doth warraunt all ydle men, vaggabunds, sturdy beggars, HARPERS, RYMERS or BARDES.*” To this and other prostrations of every patriotic and conscientious feeling, the Earls of Desmond did not stoop; and after a time, *wrung into undutifulness* and goaded by the rapacious minions of the Crown, who viewed with envy their influence and possessions, they rushed into revolt, and finally sunk in the vortex of an unjustifiable and all-destroying reform. But how little was the

Original
Commission under
Seal.

true interest of England advanced by this catastrophe: undoubtedly it enabled the Crown to plant the eight hundred thousand acres forfeited by that house with English settlers, to the exclusion of the natives, and indeed also to put in execution those other measures, which were secretly in progress, though denied when assigned by one of the Earls and his friends as the cause of their revolt. These were accomplished, it must be confessed, but they afterwards furnished a bad requital for the means used towards their accomplishment: the estates that for four centuries enabled the family of Desmond to support the English throne in Ireland, in Wales, in Scotland, in France, and even in the Holy Land, and by means of which, according to the best historians, they led to the field eight thousand of their own principal gentry and freeholders, were, after their transfer to Orrery, Inchiquin, Barrymore, and others, successfully directed against the rights of the Crown, in favour of the Cromwellian government. But the moral effects which followed this revolution in the fortunes of a house so illustrious and potent, were not such as the rulers of a people should desire: for, long after its destruction, the family of Desmond lived in the songs and tales of their country; their merits were extolled; their exploits, as is usual in such cases, were magnified; and the circumstances of their fate seemed but to rivet the affections of the people to those opinions and feelings, of which that family, from their elevated rank, had been considered the natural champions. So difficult is it to eradicate the long-entertained opinions of the people, and those ideas of superior greatness which they feel towards their favourite nobles, that, even in one hundred years after the fall of this family, we find the Irish army within the walls of Limerick, when besieged by King William, and threatened with the horrors of famine, consoling themselves by assurances of succour from "one of the Earls "of Desmonde, that dyed above two hundred years agoe," and was secretly buried, but "who the Irish fancied was "carried away by enchantment." In fact, in this, as in every other instance, great changes in the habits and feelings of a people, when suddenly attempted, seldom produce the

Clarke's
State Pa-
pers, Trin.
Coll. Dub.

benefits desired ; and the history of one country in Great Britain, now eminently conspicuous for her advances in literature, the arts, and sciences, and whose condition, in many respects, so long resembled Ireland, furnishes the best proof, that force may sometimes subdue, but can never extinguish the feelings of a nation ; that of themselves, states, like individuals, will naturally progress, if not retarded by outward or unusual causes ; and that one of the least effectual modes of gaining the affections or ameliorating the condition of a generous people, is that of exterminating their Nobles and natural leaders.

FAMILY OF PLUNKET,

BARONS OF RATHREGAN AND KILLEEN.

The following notes of the family of Plunket are subjoined, with a view to rectify some incorrect statements, which even the latest writers have made when tracing the descent of that family.

It is generally reported, that the family of Plunket was settled in Ireland anterior to the arrival of Henry the Second ; and though there are reasons for believing this tradition to be true, yet it cannot now be supported by authentic evidence.

Chief Re-
memb.
Rolls, Dub.
9, 10 E. 3.

But in the reign of Henry the Third, and how long before has not been ascertained, Walter Plunket was seised of the estate of Cluinaghlys in fee ; and on his death in that reign was succeeded by his son and heir John Plunket. This John, assuming the religious habit, died without issue ; whereupon the estate was inherited by his brother and heir Henry, whose son and heir therein was John Plunket.

In the Exchequer Rolls we find it pleaded, that this John was possessed of the lordship of Bewley, situated on the sea coast near Drogheda, which being distant two leagues from the church of Termonfeighan ; and the intermediate land in the winter and rainy seasons being covered with water at times to such a depth, that travellers could not pass, whereby the tenants were precluded from attending divine service in

that church, and many women after child-birth, in consequence, had died without the sacraments, he and his wife Alicia, after due application to the Primate, founded the church of Beaulieu within their manor; wherefore to them as lords of the soil, "ut ad Dominos soli," accrued the right of advowson or presentation to the same church. This right being afterwards disputed in the year 1317, proceedings by Quare Impedit were instituted, and judgment of the Court of Common Pleas was pronounced in favour of the said John. To him, about the same period, the Lord Lieutenant, for *some most urgent reasons touching the King*, granted the wardship and marriage (but with the clause "absque disparagatione") of Nicholas son and heir of Adam Lord of Howth; and this Nicholas subsequently married Alicia Plunket, his guardian's daughter. In the year 1332 the same John Plunket had a grant of the estates of Walter de Istelep, Treasurer of Ireland, in Kyllyn, Clony, &c. for the proceeds of which his son and heir, who was also named John, was ordered to account to the King in the Exchequer, after his father's death in the year 1352. This John was father of Richard Plunket, who was the "Narrator Regis," or Advocate-General, of King Edward in Ireland, and for whose services in that office various payments were ordered to be made. In 1359 he attended the King in England on his Majesty's affairs, and afterwards was made Justice of the Common Pleas: his name will be found amongst the members of the King's Council in the writs of summons for the 48th of Edward the Third, and 1st, 4th, and 5th of Richard the Second: which latter King, in 1385, ordered him payment for his attendance at Parliaments held in different parts of Ireland during several years preceding. In 1388 he was appointed Chief Justice, and from him descended the successive Lords of Bewley, Kilsaran, and Talanston, whose names are to be found so frequently in the public rolls. Of these, Sir Patrick, in the reign of Henry the Eighth, marrying the grand-daughter of Sir William Welles, Lord Chancellor of Ireland, had issue several sons; one of whom was ancestor to that most talented and distinguished statesman of the present day, William Conyng-

Chief Rememb.
Roll, Dub.
9, 10, 11
E. 2.

Chief Rememb.
Roll, Dub.
3 Ric. 2.

Chief Rememb.
Roll, Dub.
26, 27 E. 3.

Chief Rememb.
Roll, Dub.
33 E. 3.

Chief Rememb.
Roll, Dub.
8 Ric. 2.

Information of his Lordship's brother, the Hon. Randall Plunket.

ham, Baron Plunket of Newtown. Sir Patrick's second son, Sir Oliver Plunket, on the 15th of June 1541, was created Lord Baron of Louth, by letters patent of King Henry the Eighth; and this dignity devolved successively on his Lordship's descendants, and is now enjoyed by his direct heir male Thomas Oliver Plunket, Baron of Louth, who inherits all the ancient estates of his ancestors, except the advowsons of church livings, which, pursuant to the Statute 17th and 18th Charles II. were vested in the Crown, in consequence of the then Lords being of the Roman Catholic religion.

Chief Rememb. Roll, Dub. 31, 32 E. 3.

But Richard Plunket, brother of John Lord of Beaulieu, besides a considerable paternal estate, made large acquisitions by his connexion with the families of Blundus, or Le Blunt, Lord of Rathregan, (who was summoned by writ to the Parliament of 1310,) Le Tuite and Cusack. His son and heir, Richard, called "Richard Plunket junior," was Lord of Rathregan, Tullaghanogue, and Killallon; and on the 14th of March 1358, by a deed in the French language, Lionel the King's son, by the title of "Lionell Fitz, a noble Roi Dengleterre & de Fraunce, Comit D'Ulneestre & Seigneur de Connaught," appointed his dear and well beloved Roger de Heygham and Richard Plunket his Attornies General, to do and answer in all things for him in Ireland, and to hold his courts by themselves or their deputies in his barony of Ratowth and seigniory of Coly, &c. This appointment, which was, according to the practice of that day, a sort of deputation or power to represent the prince who gave it, rendered Richard Plunket one of the most influential lords within the Pale, by placing under his authority the provinces of Ulster and of Connaught, which were then separate jurisdictions, exclusively belonging to Lionel Duke of Clarence. There are various entries to be found by which it appears that Lord Richard's possessions were extremely extensive; and by the settlement of the Loughgower, Moreton, Dunshaughlin, and other estates belonging to the family of Berford, his sons were made remainder men in tail male to those estates.

Chief Rememb. Roll, Dub. 9, 10 H. 8.

When a Parliament was summoned in the year 1374, a

writ was issued to him, as well as to Walter Cusack, Baron of Killeen, amongst the other Earls, Magnates, and Proceres of Ireland; and on that occasion, it should be observed, his kinsman Richard Plunket, already mentioned, was summoned amongst the Lords assistant or Members of the King's Privy Council. He died soon after this Parliament; and it appears by certain entails that he had two sons, John and Christopher; the former of whom must have died without issue, as his name occurs not after that period.

Christopher was a minor at his father's death; and it was not until 1391 that he was sued to take on him the order of knighthood, according to law; for which purpose he was found by inquisition to possess the necessary qualifications in the county of Meath alone. At this time the title of the family, we should conclude, was Baron of Rathregan, as it was there Lord Richard and his son resided; and the castle of Rathregan, as the place of residence, must be considered to have been the "*caput baroniæ*:" but soon after, Sir Christopher Plunket married Johanna the daughter and heiress of Sir Lucas Cusack, Baron of Killeen, the son and heir of Sir Walter Cusack, Chevalier, who was summoned by writ to several Parliaments, and particularly to that of the 48th of Edward the Third, to which Richard Plunket was summoned at the same time. By this marriage, Sir Christopher acquired, in right of his wife Lady Johanna, the lordships and manors of Killeen, Kilsuire, Killallon, Clonmacduffe, and Clony, with the advowsons of the churches lying within the same. This marriage took place in or before the year 1402, while parliamentary dignities, as declared in the 51st Edw. III., were enjoyed by tenure, as on the 3rd of May in the former year, Sir Christopher and his wife were ordered to be released from the debt of £300, for which her father and grandfather, Sir Walter and Sir Lucas, stood bound to the King by bond, in consideration chiefly of Sir Christopher's labours, and expences incurred, when accompanying the Lord Lieutenant in various journeys. But to obtain legal possession of the seigniories accruing to him by this marriage, Sir Christopher and Lady Johanna were obliged

Chief Rememb. Rolls, Dub. 18 Ric. 2.

Chief Rememb. Roll, Dub. 3 H. 4.

to sue out several charters or letters patent, whereby the King forgave and remitted the penalties imposable on those who married the King's wards, or entered on their possessions, without royal licence; and accordingly Henry the Fourth, Henry the Fifth, and Henry the Sixth, granted several such pardons, now enrolled, to the said Sir Christopher and Johanna his wife, remitting all actions, penalties, and fines for this marriage, and for entering into the manors of Killeen, Kilskeer, Killallon, &c. In these records, which were tantamount to a new gift from the Crown of the seigniories, and in several others entered on the Exchequer rolls, the marriage, the estates, and the descent of Johanna from Sir Walter the grandfather, are set forth. Soon after this, Sir Christopher changed his residence to Killeen castle, where he thenceforward resided, as appears particularly by the letters patent and other public instruments which passed the Great Seal while he was Lord Deputy of Ireland, and which were tested at Killeen in the following words:—
“Witness our beloved and faithful Christopher Plunket, Knight, deputy of our beloved and faithful Thomas Stanley, Knight, out Lieutenant in our land of Ireland, at Killeen, the 2nd of April, in the twelfth year of our reign.”
He however, like many others of the leading feudal nobility, was not usually styled by any title of honour derived from the name of those seigniories which were vested in him, nor was such used by this family until about the middle of that century; after which time, the nobles almost invariably had some title of honour added to their names. This may be gathered from the letters patent just cited, and also from the preamble of other royal grants dated in 1434, wherein the King recites, that he makes the same “with the assent of our beloved and faithful Christopher Plunket, Knight,” but gives him no other title. In the preceding reign, his name will be found affixed to the address from the Parliament at Naas to the King, and therein he uses no title of honour. But after such titles were adopted pretty generally, as the family were permanently residing at the

castle of Killeen, and kept their principal court there, Sir Christopher's grandson and heir used and received the title of Baron of Killeen; and in a statute passed in the year 1355 he is called Baron of Killeen, and so his successive heirs male have continued to be styled. Statute
Roll, Dub.
33 H. 6.

It was thought useful to go so far into the origin of the above title in the Plunket family, as they were said to have become Parliamentary Barons in right of the Lady Johanna, heir general to Sir Walter and Sir Lucas Cusack; and as this would have been contrary to the custom or usage of dignities in Ireland, it is satisfactory to find that the assertion is not well founded. The Plunket family were Parliamentary Barons, as Lords of Rathregan and other seigniories, long before this marriage; and Sir Christopher's father, Richard Plunket, had his writ of summons as a Baron, while Sir Walter Cusack, the grandfather, was possessed of the Barony of Killeen; and it has been already shewn, that in the instance of the 48th Edw. III. they were actually summoned with the other peers to one and the same parliament. Even however had a commoner, with the concurrence of the Crown, acquired by purchase, (in the modern acceptation of the word,) or by marriage, an extent of territory within the Pale equal to that possessed by the Cusack family, such commoner would be liable at that period to the King's writ of summons, and should render parliamentary aid, not in right of such marriage, but by virtue of the tenure of such seigniories to which that duty was incident or annexed: this observation, which is made here generally, and without reference to the Plunket family, to whom it is not applicable, will be found borne out by the declaration of law made in the 51st Edw. III. by the "*Modus Tenendi*," and by other documents: though perhaps there is only one instance that can be produced now of a Parliamentary dignity actually acquired by purchase since the reign of Edward the Second; and though, to justify the opinion just advanced, no instance can be adduced of any one of the present Feudal peerages of Ireland having been acquired in marriage by commoners.

Ancient
Copy,
Library,
Lambeth
Palace.

Chief
Rememb.
Roll, Dub.
26 H. 6.

It appears from the manuscripts preserved in the Archbishopal Library of Lambeth, that Lord Christopher settled his estates on trustees; and in the year 1445 the uses of such settlement were declared to be to the use of himself for life, remainder to his grandson and heir Christopher, and Johanna Bellew his wife, and their heirs male, &c. with remainders in tail male to his the settlor's sons, Christopher (who became Lord of Dunsany, but in a manner totally different from that given by Mr. Lodge), Thomas, Robert (who, in the ancient pedigrees in the Museum, is said to have married the widow of the Duke of Clarence), Rowland, and Edward. He died soon after, and was succeeded by his grandson, the above-named Christopher, who was son and heir of his eldest son John.

It has been erroneously stated that the above John was the immediate successor of his father Sir Christopher; but it appears John not only died before Sir Christopher, but was dead when the above settlement was made, as is evident from the terms of that instrument. John's son and heir however, Christopher, who is made next in remainder, inherited the dignity and estates on his grandfather's death, and, as such, accounted in the Exchequer in 1448, for debts due to the Crown by his grandfather Sir Christopher the settlor. He died in the year 1462, and having married Johanna Bellew, was succeeded by his son and heir Christopher.

Stat. Roll,
Ch. Dub.
3 E. 4.
Ch. Rem.
Roll, Dub.
7 E. 4.

This Christopher had a grant of livery of the estates on his father's death, which grant was made by an express statute passed for the purpose, he being then of the full age of twenty-one years. His Lordship was deputy to the Earl of Desmond in the government of Ireland, and the royal patents and other state instruments were again tested at Killeen Castle. He married Elizabeth daughter of Sir William Welles, who was brother of Leo Lord Welles, a Baron of the English Parliament; and by a settlement executed of some of his estates in the year 1463, a remainder was created in favour of Sir Christopher and this Lady Eliza. Though his Lordship had female issue by this marriage, yet having no son, the title and estates, according to the customs and course of dignities in Ireland, devolved on his brother Edmond.

This Edmond became Baron of Killeen, and as brother of the late Lord, an act was passed in the year 1470, granting him livery of all the family estates. He sat in the Parliament of 1486, and with the other peers signed the address in "playne Parlement," on behalf of the Earl of Kildare, to Henry the Seventh; and afterwards, being absent from the Parliament of 1499, was amerced accordingly. He died soon after the accession of Henry the Eighth, leaving a son and heir, John.

Stat. Roll,
Ch. Dub.
10 E. 4.
Original,
Chap. Ho.
Westmin.

John Baron of Killeen was a minor at his father's death, and was therefore granted in wardship to Viscount Gormans-town. In 1518, however, he had a grant of livery of his estates; and after that, as one of the Lords of the Privy Council, signed several warrants and orders in that reign, as appears by the Exchequer rolls. He was present in the Parliament which conferred the title of King of Ireland on Henry the Eighth; and dying in the reign of Edward the Sixth, inquisitions post mortem were held, finding the extent and tenure of all his estates, and that Patrick was his son and heir.

Ch. Rem.
Roll, Dub.
5, 6 H. 8.

Ch. Rem.
Roll, Dub.
11, 12 H. 8.

Ch. Rem.
Roll, Dub.
5, 6 E. 6.

Patrick Baron of Killeen had issue two sons, Christopher and James.

Lord Christopher, on his father's death, inherited the title and estates, and sat in the first Parliament convened after the Queen's ascension; but dying without issue male, he was succeeded by his brother James.

Here we have another exemplification of that law or usage prevailing in the descent of dignities in Ireland. Christopher, the Baron last seised, after being summoned to, and sitting in the Parliament of 1599, died leaving three daughters, all living and having children: amongst whom, according to the present law of dignities in England, the Barony created by the summons and sitting of their father should have become abeyant; but neither those coheirs, nor their descendants, ever derived any thing under such summons and sitting, as the dignity and estates were inherited by Lord Christopher's brother James, as next heir male, and he immediately after that Baron's death was styled Lord and Baron of Killeen by Queen Elizabeth, and was summoned to and sat in the Par-

Ch. Rem.
Roll, Dub.
13, 14 Eliz.

liament of 1585. He dying was succeeded in 1595 by his son and heir Christopher.

Chancery
Roll, Dub.
1 J. 1.

This Christopher Lord Killeen, when the news of Queen Elizabeth's death arrived, with the Lord Deputy and other the Peers, directed the Chancellor to issue writs of summons "de consilio habendo;" and this grand council, "after longe and grave consultation," elected and appointed Charles Lord Mountjoy to be Chief Governor of Ireland, pursuant to the Statute of Henry the Second, as explained by that of 2nd Ric. III. The signature of this Lord Christopher, as well as of Lords Gormanstown, Mountgarret, Buttevant, Slane, Trimbleston, Fermoy, Cahir, Delvin, and Louth, are affixed to those sensible and spirited declarations which the leading nobility forwarded to King James in the year 1613, against his pernicious design of multiplying the corporations, and crowding the Lower House with the obscure menials of the state. He died in that year, and was succeeded by his son and heir Lucas.

Cott.MSS.
Brit. Mus.
Tit. B. x.

Lucas Baron of Killeen sat in the Parliament of 1614, and by letters patent dated 24th October 1615, was commissioned with the Earl of Thomond, the Viscount Gormanstown, the Barons of Slane, Delvin, Howth, Trimbleston and Louth, to dissolve that Parliament. On the 26th of September 1628, the King by patent, in which he declares that Lucas Baron of Killeen ranked amongst the most ancient Barons of his kingdom of Ireland, advanced that nobleman to the higher dignity of Earl of Fingal, to hold to him and the heirs male of his body, with seat and voice in Parliament, and with all such rights, privileges, pre-eminences, prerogatives, immunities, advantages, fees and emoluments as to the dignity of an Earl in Ireland belonged, and as others the Earls of that kingdom theretofore better and more honourably used or enjoyed, or then did use and enjoy the same. Under this creation, Lord Lucas accordingly took his place, and sat as Earl of Fingal in the Parliament held in 1634, as appears by the Journals.

His son and heir, Christopher Earl of Fingal, also took his place amongst the Earls, and sat in the Parliament of

1639. On this nobleman's death, he was succeeded by his son and heir Lord Lucas, who by deeds of lease and release, dated the 29th and 30th of November 1683, settled all his estates expectant on his own decease, on his son Peter and the heirs male of his body, with remainders over to his brother, his uncles, and several of his ancestors in *tail male in such line as the ancient peerage of Killeen would go*. Lucas married Margaret daughter of the Earl of Clancarthy, and had issue a son, Peter, and three daughters.

Case of
Earldom
of Fingal,
Parlia-
mentary
Record
Off. Dub.
Castle.

Peter Earl of Fingall succeeded; and on the 17th of September 1698, after suffering common recoveries, made a settlement of his property, limiting the same to the heirs male of his own body, with remainders to his uncle Nicholas, his great-uncle George, and to various ancestors of the family and *their heirs male, in such line as the claim to the ancient honour of Baron of Killeen would go*. He died in the year 1717, leaving four children, viz. Justin his son and heir, who succeeded him; Margaret, married to John Nugent, of Castle Nugent, Esq.; Emilia, married to Robert Earl Nugent; and Mary, married to Maurice O'Connor, Esq. (by whom she was mother of John, who married the daughter of Richard Malone, Serjeant at Law), and after his death to Robert Fitz Gerald, LL.D.

Family
Deeds, &c.
on Chief
Rememb.
Rolls,
Dublin.

Justin became Earl of Fingall, but died the 27th of March 1734 without issue; and though all his sisters, the lineal heirs of his father, were then living, yet neither they nor their descendants took any thing in right of such coheirship, except certain lands held by his Lordship in fee simple: on the contrary, the ancient Feudal dignity of Killeen devolved on the next heir male of the Baron last seised.

This was Robert Plunket, Esq. grandson of Lucas first Earl of Fingall; by him was inherited the Feudal dignity of Baron of Killeen, according to that usage which seems to have so long obtained as to dignities in Ireland, as also the higher honour of Earl of Fingall, pursuant to the terms of the patent of 1628. These honours he enjoyed until his death in 1738, when they devolved on his son and heir Arthur James.

Arthur James became the next Earl of Fingall and Baron of Killeen, and having borne these honours for more than half a century, died in August 1793, and was succeeded by his son and heir, who was also named Arthur James.

Report,
Pedigree,
Letters,
&c. Parli-
amentary
Record
Off. Dub.
Castle.

Arthur James, the present venerated Earl of Fingall and Baron of Killeen, was born in the year 1759, and on his father's death applied to his Majesty to have the reversal of certain outlawries against some of his ancestors entered and enrolled. In consequence, his Excellency the Earl of Westmoreland was commanded to refer this application to the Prime Serjeant, Attorney, and Solicitor General of Ireland, for their report and opinion on the same, who on the 25th of February 1795 reported, after due examination of various documents, that his Lordship had proved his descent, and was "heir male of the body of Luke first Earl of Fingall." This report was afterwards laid before the House of Peers in Ireland; and on the other necessary proceedings being had, his Lordship's application was fully complied with.

This nobleman's son and heir is Arthur James, who, according to the general custom of those families where Baronial honours are merged in superior titles, is styled Baron of Killeen; and the ancient castle, which so long had been the "Caput Baronie" of that Feudal dignity, is still the principal residence of his Lordship.

CHAPTER X.

DECISIONS, REPORTS, AND LEGAL OPINIONS ON CLAIMS
TO PEERAGES. ATTAINDERS. CONSTRUCTION OF STA-
TUTE 9TH WILL. III. WRITS OF ERROR, REVERSALS
OF ATTAINDERS, &c.

AMONGST the records of the House of Lords of Ireland, preserved in the Parliamentary Record Office, Dublin Castle, are several Petitions, Reports, and other papers connected with Claims to Peerages made previous to the Act of Union. The dignities to which those documents chiefly relate, and the period at which such claims, &c. were made, are as follows, viz. :—

Papers relating to	
The Barony of Slane, dated about the year .	1709
Earldom of Tyrone	1717
Barony of Kingsale	1721
Barony of Upper Ossory	1749
Barony of Le Poer	1767
Viscounty of Valentia, &c. . . .	1771-2
Viscounty of Boyne, &c. . . .	1772
Barony of Castlestewart	1774
Barony of Dunsany	1782
Viscounty of Castellogallen	1788
Earldom of Ormond and Ossory	} . 1791
Viscounty of Thurles	
Baronies of Butler and of Arklow	
Earldom of Roscommon, &c. . . .	1792

Barony of Trimblestown	. . .	1795
Earldom of Fingall, &c.	. . .	1795
Barony of Louth	. . .	1798
Viscounty of Gormanstown	. . .	1800

After the Act of Union, some other claims to dignities were also preferred. Of these, perhaps the most recent, but certainly the most interesting on account of its being principally grounded on Continental records, is the claim to the Viscounty of Galmoye. This claim was referred by his Majesty's commands to the Attorney and Solicitor General for Ireland; and after the production and examination of much documentary evidence, &c. the following report was made by those officers, substantiating the descent of the claimant Garret Butler of Garrenderry Castle, Esquire, from the first Viscount of Galmoye, and the extinction of all intermediate heirs male.

To his Excellency Henry William, Marquess of Anglesey, Knight of the Most Noble Order of the Garter, Lord Lieutenant General and General Governor of Ireland.

In obedience to the order of reference of his Excellency Richard Marquess Wellesley, K. G. late Lord Lieutenant General and General Governor of Ireland, bearing date at his Majesty's Castle of Dublin the 19th day of October, in the year 1827, whereby the petition presented to his Majesty by Garret Butler, of Garrenderry Castle, in the Queen's County, Esquire, claiming to be Lord Viscount of Galmoy, of that part of the United Kingdom of Great Britain and Ireland called Ireland, setting forth that—(here follows the petition)—and also the memorial of, &c.—(here follows the memorial)—were referred to us to consider the same, and report our opinion what would be proper to be done upon the same: We have accordingly considered the said petition and memorial, and the evidence produced before us in support of the same; and beg leave to state, that in order to shew that the petitioner's ancestor Sir Edward Butler of Grange, in the county of Kilkenny, Knight, was by letters patent under the Great

Seal of Ireland, bearing date at Dublin the 16th day of May 1646, created Lord Viscount Galmoy, with remainder to the heirs male of his body lawfully begotten, there was produced and proved before us a constat of the said letters patent, which appeared to have been passed on the 16th of May 1646, in the 22nd year of the reign of King Charles the First, and by which Sir Edward Butler, Knight, was created Lord Viscount of Galmoy, in the county of Kilkenny in Ireland, with remainder to the heirs male of the body of the said Sir Edward Butler begotten and to be begotten for ever.

We further beg leave to state, that in order to shew that the said Edward first Viscount Galmoy died in or about the year 1653, and had issue two sons, namely, Piers or Peter, his eldest son, and Thomas his second son—that the said Piers or Peter died in the lifetime of his said father, having previously married Margaret daughter of the Viscount Netterville, by whom he had five sons, namely, Edward the eldest, Nicholas the second son, Richard the third son, James the fourth son, and Edmund the fifth son, afterwards known in the family by the name of Edmund of Killoshulan, and no other children—that Thomas the second son of the said Viscount died without issue male, having only one child, a daughter called Anne—there was produced and proved before us an attested copy of a decree pronounced by the Court of Claims in Ireland in the year 1662, upon a suit instituted therein by Edward the eldest son of the said Piers, which stated the death of the said Sir Edward the first Viscount in the year 1653; the death of the said Piers or Pierce Butler, his eldest son, in the lifetime of his father; that the plaintiff therein was the eldest son of the said Piers by Dame Margaret, daughter of Nicholas Lord Viscount Netterville, and the grandson and heir of the said first and then late Lord Viscount Galmoy. And there was also produced and proved before us an attested copy of a bill filed in the Court of Chancery in Ireland, on the first day of June 1678, by Edmund Butler of Killoshulan, grandson of the patentee; and attested copies of answers put in the to same by Charles M^c Carthy and Catherine M^c Carthy, otherwise Butler, and which said Catherine

was aunt to the said Edmund, the plaintiff in the said cause, which shewed that Thomas Butler, the second son of the said first Viscount, and brother to the said Pierce, was then dead without issue male, having but one child, a daughter; and that Nicholas Butler, Richard Butler, James Butler, and Edmund Butler, were the second, third, fourth, and fifth sons of the said Piers Butler; and that the said Nicholas, Richard, and James, the second, third, and fourth of the said sons, also all died without issue male.

We further beg leave to state, that in order to shew that Edward the eldest son of the said Piers, and grandson of the said Sir Edward the first Viscount, became, on the death of his said grandfather in 1653, second Viscount of Galmoy, and married a daughter of Sir Nicholas White, of Leixlip in the county of Kildare, Knight, and that there was issue of the said marriage two sons, namely, Piers the eldest, and Richard the second son—there was re-produced the said decree of the Court of Claims, which shewed the accession to the title of Edward the second Viscount, on the death of his grandfather the first Viscount, as eldest son of the said Pierce and Margaret his wife; and there were also produced the letters of administration granted to Lady Eleanor, the wife of the said second Viscount, after his decease, stating the decease of Edward the said second Viscount.

We further beg leave to state, that in order to shew that the said Edward, the said second Viscount, died in or about the year 1667 intestate, and that thereupon Piers his eldest son, who was then a minor, became third Viscount Galmoy—that the said Piers attached himself to the fortunes of King James the Second, and accompanied that monarch into France, where he died without issue, on or about the 18th day of June in the year 1740, at the age of eighty-eight years—there was produced and proved before us an attested copy of a bill filed in the Court of Chancery on the 20th of November 1669, by Richard Butler and Edmund Butler, the uncles of the said Pierce the third Viscount; and the answers of the said Pierce third Viscount Galmoy, put in thereto on the 1st day of February 1670, which shewed the death of the

said Edward the second Lord, and the accession to the title by the said Piers the third Viscount, his son. And there was then produced and proved before us a certificate of the French Secretary at War, shewing the said Piers to have been resident in France, and his appointment as a Lieutenant-general in the French service; and also a certificate of burial from the parish of St. Paul, Paris, stating the death of the said Piers Lord Viscount Galmoy, on the 18th of June 1740.

We also beg leave, to state, that in order to shew that Richard Butler, the second son of Edward the second Viscount, and younger brother of Piers the third Viscount, accompanied his said brother into France, having previously married a Miss Lucy Cavanagh, by whom he had four sons, viz. James Francis Richard the eldest son, James Richard the second, James Edward the third, and Francis Piers Butler the fourth son, and one daughter Sophie, and that he died about the year 1725—there was produced to us, and proved before us, five extracts from the registry of the town of St. Germain-en-Laye, stating the respective baptisms of four sons of Richard Butler by Lucy Cavanagh, by the names of James Francis Richard, James Richard, James Edward, and Francis Piers Butler, and one daughter by the name of Sophie; and a certificate of the burial of the said Richard on the 19th day of January 1725. And in order to shew that James Francis Richard, the eldest son of the said Richard, after the death of his uncle the said Piers, assumed, and was in France commonly called the Viscount de Galmoy; and that the said James Francis Richard died in France about the year 1770, without issue male; that the said James Richard Butler and James Edward Butler also died in the said kingdom without issue; and that the only issue which was of the said Francis Piers Butler was a son born four years before the marriage of his parents, and baptized at Arras by the name of Peter Antoine Louis—there was produced the certificates of pensions having been granted by the French government to the widows of the said James Francis Richard and James Richard; and several documents shewing that Piers Louis Antoine Butler, the illegitimate nephew of the said James

Francis Richard, James Richard, and James Edward, assumed the title of Viscount de Galmoy in France: and there was also produced the certificate of the baptism of the said illegitimate son, he being the son of the said Francis Piers Butler by one Catherine Julie de Valory, born out of wedlock on the 13th of June 1741; and the certificate of the marriage of the said Francis Piers Butler and the said Catherine Julie de Valory, nearly four years afterwards, viz. on the 3rd day of February 1745. And in order to prove that the said Piers Louis Antoine Butler, the illegitimate offspring of the said Francis Piers Butler and Catherine Julie de Valory, assumed the title of Viscount de Galmoy, and was the last male descendant of the family resident in France, as also the death without issue male of the said Piers Louis Antoine—there was produced and proved before us an affidavit sworn on the 9th day of April 1828, by Madame Hay, aged seventy-two years, the widow of the Chevalier Hay, who was grand-nephew of Piers the third Lord, which states,

“ That the informant was acquainted with the mother of her late husband, whose christian name was Sophia, and who was called Madame Sophia Butler, Butler having been her name before her marriage; and that the said Madame Sophia Butler died in the year 1792.

“ That she had often discoursed as well with the said Madame Sophia Butler, mother of her said late husband, as with her said late husband, on the subject of the Galmoy family, and of the Viscount of Galmoy who died lately at Boulogne; and that it was always credited and believed in the family of the informant, and she had always understood from these circumstances, that the said late Lord Galmoy was the last heir male of his family in France.

“ That she had frequently seen the said late Lord Galmoy at Nantes; and that she knew and corresponded with him by letter; and that she had never heard him say that there was in France any other male descendants of this family than himself.”

Francis Hyppolite Chevalier Hay, aged fifty-four, residing also at Nantes, Isle Feydeau, Quai Turenne, No. 10, son

of the said late Noel Richard, Chevalier, and the aforesaid Lady his widow, by his affidavit states:—

“ That he had seen the said late Lord Galmoy at Nantes, and when young was acquainted with him; and that it was always esteemed and believed amongst the members of the deponent's family that the said late Lord Galmoy was the last and only male descendant of the Galmoy family in France; and that there never existed a rumour or belief that there were in France any other male descendants of the said Galmoy family, except him the said late Lord Galmoy.”

The claimant then relied that he had thus shewn that all the male issue of Edward the second Viscount, the grandson of Sir Edward Butler, the first Viscount, became extinct; and that the three next brothers of Edward the said second Viscount, viz. Nicholas, Richard, and James, having died without issue, as before mentioned, the title reverted back to the blood of Edmund Butler, the youngest brother of Edward the said second Viscount, and youngest grandson of Sir Edward the first Viscount, known, as before mentioned, by the name of Edmund of Killoshulan.

In order to shew that this Edmund of Killoshulan died in or about the year 1691, leaving Piers Butler, commonly called Major Piers Butler, his eldest son, there was produced and proved before us an original instrument, dated the 23rd day of April 1701, between Piers Butler of Fertagh and Erlingford of the one part, and one John Bishop of the other part; and which said instrument states, that the said Edmund Butler, called Edmund of Killoshulan, was father of the said Pierce, and that he was then deceased. And there was also produced and proved the copy of a letter written by the said Pierce Butler to Major Mathew of Thurles in the county of Tipperary, stating that he was the only man of his unfortunate family then in the kingdom of Ireland.

We further beg leave to state, that in order to shew that this Pierce Butler married Domville, daughter of Sir Robert Hartpole, by whom there was issue Edmund Butler, the eldest son and heir, there were produced before us two original leases, the first dated 23d December 1708, made

between William Hartpole of the one part, and one Francis Morris of the other part; and which lease demises certain lands in the Queen's County to the said Morris, in as large and ample a manner as Pierse Butler then held and enjoyed the same: to hold the said lands for the lives of the said Domville Butler, wife of Pierse Butler of Erlingford, Edmund Butler eldest son of the said Pierce; and the second a lease dated the 16th of February 1719, from said Francis Morris to the said Edmund Butler, stating the said first lease of 1708 as having been made to him in trust for the said Edmund Butler; and it also appeared before us, that the lands in the said leases are at this day in possession of the present claimant.

We also beg leave to state, that in order to shew that this Edmund had issue, and that Piers Butler of the city of Dublin, Esquire, Barrister at Law, was the eldest son and heir of this marriage; and that he married a Miss Mary Mandeville—there were produced and proved before us certain articles of agreement bearing date the 24th of February 1795, made on the intermarriage of the said Piers Butler with Mary Mandeville, daughter of Theobald Mandeville deceased, in which articles the said Piers is styled eldest son and heir apparent of the said Edmund, and by which the lands in the leases of 1708 and 1719 are settled to the uses of the said marriage.

In order to prove the death of this Piers Butler, and that Edmund Theobald Mandeville Butler was his only son and heir, there was produced before us the original probate of the will of his widow, Mary Butler, otherwise Mandeville, and by which will she bequeaths certain property to Edmund Theobald Mandeville Butler, then of full age, the only son of the said Piers Butler.

And in order to show that this Edmund Theobald Mandeville Butler married a Miss Neville, and that there was issue of the said marriage four sons, namely Piers the eldest, Garrett the second, William the third, and Tobias the fourth son; and that Piers the eldest son of the said Edmund Theobald Mandeville Butler died intestate and unmarried

in the year 1824, leaving Garrett Butler, the present claimant of the said title of Galmoy, his next brother, the eldest surviving son of the said Edmund Theobald Mandeville Butler—there was produced before us an affidavit made by Isaac Coates of the city of Dublin, Esquire, barrister at law, a relative of the family, his late wife being niece of the said Piers Butler, and which stated that he knew the late Edmund Theobald Mandeville Butler and his family intimately; that the said Edmund Theobald Mandeville Butler died in 1815; that he left four sons, namely, Piers Theobald, Garrett, William, and Tobias; that the said Piers Theobald died in the year 1824, unmarried and without issue, leaving Garrett his next brother and heir at law: and there was produced and proved before us a lease of the said Edmund Theobald Mandeville Butler, of certain premises in the county of Tipperary, dated 14th January 1807, for the lives of Piers Theobald Butler, eldest son of the lessee, Garrett Butler, his second son, and William Butler his third son; and another lease, dated in 1802, to the said Edmund Theobald Mandeville Butler, stating that the said Piers Butler and Mary his wife were then both dead: and there was also produced and proved administration from the Court of Prerogative in Ireland, of the goods and chattels of the said Piers Theobald Butler, deceased, unto the said Garrett Butler, his next brother, the present claimant.

Having thus stated the evidence adduced by the petitioner, to prove that he is now the eldest male heir of the body of Sir Edward Butler the first Viscount Galmoy, it is necessary for us to state that much additional evidence was offered by the said claimant in support of his right to the said title, which, although corroborative of several parts of the evidence hereinbefore set forth, we rejected, considering the same deficient in a legal point of view. It is now our duty to state, that by the Statute of the 9th Will. III. chap. 5. after reciting that Pierce then Viscount Galmoy, and the third of the title, did amongst other evil and wicked disposed papists, contrary to their allegiance and duty, utterly refuse to submit to his

Majesty's government, and did encourage rebellion in Ireland ; it was thereby enacted that all and every the convictions, outlawries, and attainders in this kingdom, of any person or persons whatsoever, for high treason or rebellion, not reversed or pardoned before the 29th July 1697, (other than as therein,) should be and remain sufficient and effectual in the law for ever to all intents and constructions and purposes, any error, inefficiency, or other defect in form or matter in them or any of them to the contrary notwithstanding ; and that no judgment upon any writ of error or plea, nor any pardon from his Majesty, his heirs or successors, should anywise operate to the prejudice or to the invalidating of such conviction, outlawry, and attainders, except such as were therein before excepted, any law, usage or custom to the contrary notwithstanding.—In consequence of this statute, we submit whether any thing short of an Act of Parliament can reverse the attainer thereby created.

Upon the whole of this case, however, we are humbly of opinion *that the said Garrett Butler, the claimant of the said title of Viscount of Galmoy, has well proved his right to the same in case the said attainer were out of the way ; and that his Majesty may, if he shall be graciously pleased so to do, recommend the proper measures to be taken to reverse the attainer created by the said act of William the Third, in order that said title, honour, or dignity of Viscount of Galmoy of the kingdom of Ireland may be revived in the person of the petitioner, the said Garrett Butler, the more so as such attainer arose from the acts of Pierce the third Viscount, who was not the lineal ancestor of the said claimant, he having, as before stated, shewn his right to the said title through the uncle of the said Pierce.*

All which is humbly submitted to your Excellency as
the report of your Excellency's obedient and very
humble servants,

H. JOY.

JOHN DOHERTY.

Dublin, the 19th day of
June 1828.

The Statute 9th William III. chapter 5, alluded to in the above Report, was lately submitted to the most eminent Counsel, who concurred in opinion that its operation extended to the Attainders also of 1641, and that such Attainders, so confirmed, are not reversable by Writs of Error, by Pardon of the Crown, or by any thing short of a Statute passed for the purpose.

Thus this enactment, which was passed under peculiar circumstances, has restricted one of the most ancient and esteemed Prerogatives of the Crown; and though pronounced to be not only *useless* but even *mischievous* by the gravest authorities, it is still allowed to linger on the Statute Book.

It is necessary to add, that after the most careful research, it appears that no Legal Attainder was ever had in Ireland, against the Dignity which forms the subject of the above Report.

CHAPTER XI.

WRITS OF MILITARY AND PARLIAMENTARY SUMMONS.
 PROOFS OF SITTINGS. FINES FOR ABSENCE. WRITS
 OF SUMMONS, WITH CLAUSES OF CREATION, &c.

It was originally intended to embody in this work a perfect collection of all the writs of Military summons which issued from the Crown to the Baronage of Ireland; but after that collection had been made, those writs were found to be so voluminous, as to preclude their publication at the expense of an individual. In consequence the original design was unavoidably relinquished, and only a few of those documents are now inserted. For a similar reason, the numerous and valuable writs from the Crown to the Nobles for their "*auxilium et consilium*" on new accessions to the Throne, on appointments of Chief Governors, &c. are also excluded; but in their stead, the writs of Parliamentary summons, wherever diligent research could discover them, many proofs of sittings, fines for absence, and such other evidences respecting the Feudal Baronage, as must be important in the absence of regular Parliamentary journals, were collected and are now published.

The doubts hitherto raised as to the period when the Common Law was introduced into Ireland, rendered it necessary that satisfactory evidence should be adduced on that subject; and therefore there may be also seen in the following collection a series of writs and royal ordinances which have never yet been printed, and which not only throw much light on

the Commune Concilium, courts and jurisdiction of the Irish Baronage, but also clearly establish that the Common Law was in full operation in Ireland long before King John's second visit in the year 1210.

[Charter Roll, T. L. 2 John, m. 28. dors.]

Rex &c. Archiep̃is &c. Sciatis qđ multum cōmendam⁹ dilc̃m et fidelem ñrm M. fit Henr̃ et bonum servitium suum qđ nob̃ feč et ei tanq̃m dilcō et fideli ñro cōmisimus curam et custodiam tocius t̃re ñre Hiḃnye et ip̃m inde CAPITALEM JUSTIC' constituimus Et ideo voḃ mandam⁹ qđ ei tanq̃m Capitali Justic̃ ñro sitis intendentes et negocia ñra scđm qđ ip̃e voḃ dixerit pmoveatis Sciatis auḡ qđ retinuimus ad opus ñrum oīa placita Hibernye spectantia ad Coronam ñram et Monetam et Cambiū Et ideo voḃ phibem⁹ sup Forisfačam ñram ne de plātis talibus aut Moneta aut Cambio vos de cetero intromittetis. T.

[Charter Roll, T. L. 2 John, m. 28. dors.]

Rex &c. Arch̃i &c. Sciatis qđ nolum⁹ qđ aliq̃ Recogñ fiat in Hyb̃n nisi in Curia ñra nec aliq̃s sit utlagat⁹ nisi p Curiam ñram Quare voḃ mandam⁹ et phibemus ne de hiis de cetero vos intromittatis. T. me ipo ap̃d Berkeley xxvii⁹ die Octob̃.

[Patent Roll, T. L. 3 John, m. 8.]

R. &c. Baroñ de Mida sal̃ Mandam⁹ voḃ q̃tinus fidē h̃atis hiis q̃ M. fit Henr̃ Justic̃ ñr et W. de Burgo si p' infesse et G. de Costentiñ voḃ dicent ex pte ñra. T. me ipo ap̃d Sčam Barḃ ij⁹ die Noveḃ.

[Charter Roll, T. L. 5 John, m. 15. dors.]

Rex &c. Archiep̃is Ep̃is Abbibz P̃ioribz Archid̃ et uni⁹so cleṛo p Hiḃ constitutis sal̃m. Satis nostis sič et tot⁹ mund⁹ q̃tr Rex Franc̃ q̃ dñ et rōnē et q̃ cartam suam et jurañtū nos warrare et exh̃edacōem ñram q̃r'e nō cessat. Nos auḡ pp̃ hoc venim⁹ in Angl̃ g̃ra Dei sani et icolumes ubi oīms de regno Angl̃ nos honorifice recepunt sič dñm q̃ libal' et benigne habita considacōe ad urgentissimū neḡm ñrum nob̃

efficax faciūt auxilium tam ī veniendo corpaīr ī ſviciū nrm ī Norū qm de militibz et pecūia Qia ig' instat ista necēitas q nūq nob major emsit aut emge pōit, vos nō consuetudinarie s; amabilr rogam^o qtin^o siē de vob confidim^o et siē nos et honorē nrm diligitis, efficax nob auxiliū faciatis ī hoc necētatis nro articlo sicut dilci et fideles nri justic Hib W. de Lascy archid Stafford et alii nuncii nri cū eis ad vos veniētes vob dicent ex pte nra vl aliq' ex ill' si oīs inlesse nō possint, et tm īn facientes qd vob ppetui teneam' obnoxiores, et qd deſam^o vos mīto exaudire ī negociis vris cū nos req'sieritis. Et cētissime sciatis qd nūq nob ab illo auxiliū fī postulabim^o q' nob ī hac tanta necēitate auxiliū denegabit. T. me ipo aī Noting x^o die Feb̄r.

Sub ead forma sc̄ibiū cōm baī justic vic mil civibz m̄catoribz burgensibz et libe teñ et omibz aliis fidelibz suis p Hib cōstitutis.

[Patent Roll, T. L. 6 John, m. 6.]

Rex &c. Archiep̄is Ep̄is &c. Mittim^o ad vos dilcos et fideles nros Ad elcm Waterford Hen̄ Biset Gaufr' Lutterell Rad de Cirencestr' et Roḡ le Cordewin Mandantes et firmi^o injungentes qtin^o fidē heatis eis indubitatā de negociis nris Hib q ipi vob exponēt. T. me ipo apd Cristeschirche xij^o die Nov̄.

[Patent Roll, T. L. 6 John, m. 9.]

R. &c. M. fit Hen̄ &c. et Walto de Lascy &c. Mandam^o vob q suḡmōi faciatis Joñ de Curcy qd sine dilcōe veniat ī ſviciū nrm siē se ventur̄ juravit et uñ obsides suos dedit et p Consiliū Barōn et Fidelium nroī Hibn ad hoc ei tminū statuatis opetentē. Et si infra tminū illū non venit tē īn judiciū Cuī nre fī faciatis. Et si judicium Cuī nī ttram ei abstulit tē faciatis hre de ttra illa viiii Cantredos Walto de Lascy et Hug fīi suo pximiores ttre eoꝝ de Mida teñdos de nob p ſviciū q īn nos qvenit et ea convencōe qd residuū ttre illius nob delibent cū rōnabili auxilio ttre nre Hib qd nob debet' semel ī anno. T. Dño Norwič apd Getinton xxxj die Auḡ.

[Patent Roll, T. L. 6 John, m. 9.]

Rex &c. omībz Bař de Ultoñ qui juraŋt et obsides dedunt p J. de Cury salť Mandam^o voř et vos diŝcte ſumōneñ q^{tin}^o venire faciatis Dñm vřm J. de Cury in ſviciũ nřm uñ jurastis et obsides vřos noř t^{didistis} siĉ eosd obsides et feoda vřa diligitis, scientes q nⁱ venſit in ſviciũ nřm infra ĩmñ qui ei ĩñ a Justiĉ nřo ſtatutus fuťit, Nos ad obsides vřos et ad Feoda vřa Vos capiem^o Et in huj^o rei &c. T. Dño Norwiĉ ař Getinton j^o die Sept.

[Patent Roll, T. L. 6 John, m. 9.]

Rex &c. Bař de Lageñ &c. Grates voř refřimus p auxilio q noř fecistis et bono ſvicio qđ noř facitis siĉ Justiĉ nř Hiř noř mandavit qui se ĩltũ laudat de voř Et vos rogamus qđ auxiliũ illud qđ noř pmissistis sñ diťcoe řdĉo Justiĉ nřo nob^o mittend ģre faciatis et sicut bne et viriliter vos hactenus ģuistis in ſvicio nřo ita vos ģatis sicut de voř confidim^o Scientes qđ ĩltũ de voř et de eod Justiĉ nřo nos laudam^o T. Dño Norwiĉ ař Gaitinton j^o die Sept.

Alie Litře Pať dirigunt^r omnibz fidelibz Hiř p q^s Dñs Rex eis ģřas refřet de bono ſvicio suo et eis mandat ut intendat Justiĉ Hiř ad honorē Dñi Reģ.

Alie Litře Pať dirigunt^r Civibz Dublin p q^s siř eis ģřas refřet de bono ſvicio suo et eis mandat qđ intendat ad Civitatē suā firmādā unusquisq ex pte sua & qđ nⁱ feĉint mandavit Justiĉ ut ipe eos ad ģ faciend cōpellat.

[Patent Roll, T. L. 6 John, m. 7.]

Rex &c. Justiĉ Bař Miť et omībz fidelibz suis Hiř &c. Sciatis qđ dedim^o potestatē Justiĉ nřo Hiř qđ břia sua currat p totam ģram nřam et potestatem nřam Hiř scłt Bře de Recto de feodo diñ miť et infra et de morte añcessoris siř de feodo diñ miť et infra et erit ģmin^o de morte aň post transfretacōem H. Reģ Přis nři de Hiř in Angł Et bře de Nova Diŝ cuj^o erit ģminus post přmam Coronationem nřam ař Canť Et bře de fugiť et Nať et cj^o erit ģmiñ post capcōem Dublin et Bře de divisis faciendis inter duas villas

exceptis Baroñ Et io vob mandam⁹ et firmi⁹ ꝑcipim⁹ qđ h
ita fi et firmi⁹ tenēi p totam potestatem nram Hib⁹ faciatis.
T. me ipo ap Westm ij^o die Novbr.

[Close Roll, T. L. 7 John, m. 22.]

Rex &c. M. sūt Henr⁹ justi⁹ Hib⁹ &c. Mittim⁹ ad vos
dilem et fidem nrm Hu⁹ de Lascy Comitē Ultoñ cui fide
hatis indubitata sup hiis q vob dixit ex pte nra de negociis
nris q comodū nrm et pacē tre nre cōtingt qm ipm i his
exequendis cū requisit⁹ fuit credim⁹ fore fidelē nob coadjutore
ad fidē nram Mandam⁹ et vob q nllam guerrā moveatis q
aliq⁹s de Marchia n⁹ p consiliū Wal⁹ de Lascy et ꝑdci H.
fris sui et alioꝝ fideliū nroꝝ quoz fidelitatē et sviciū scieritis
ad hoc manutenend⁹ ēe necēm Et si p cōsiliū eoꝝ expedierit
Werrā movē p cōsiliū eoꝝdem pecuniam nram ponatis i gente
tenenda qndo viditis necessitatē et sic eā poni cōsulūint ad
majus comodū nrm et min⁹ dispndiū faciendo i p⁹mis p svicia q
nob debntur de regno Hib⁹ q face potitis p consiliū ꝑdcoꝝ ad
werrā manutenendā et tminandā Et p⁹tea si op⁹ fuit de pe-
cunia nra ponatis p cōsiliū eoꝝdē q viditis ponend et ponē
potitis ad fidē et comodū nrm. T. me ipo apd Lutegarnhal
xxx die Jun.

[Patent Roll, T. L. 9 John, m. 2.]

Rex dileis et fidelibz suis Baroñ et Militibz Mid salū
Grates vob ref⁹im⁹ multimodas de fide et lijantia q nob svartis
Cū discordia orta ēet in⁹ Wal⁹ de Lascy Dñm vrm et
Justi⁹ nrm p civitate nra Lim⁹ q Willo de Braos libavim⁹
custodiendā qmdu nob placet et qđ ipm Dñm vrm a malo p
posse vro avtistis Nūc aut vos exoram⁹ q⁹tin⁹ eandē fidē et
ligentiā p⁹efan⁹ teneatis qm nō leni⁹ sustinebim⁹ qđ Justi⁹ nro
dampnū vl dedec⁹ inf⁹lat⁹ qmdu fuit in svicio nro Precam⁹
enī q⁹tin⁹ p amore nro auxiliū Justi⁹ nro faciatis ad civitatem
nram Dublin firmandā Tantū iñ facientes qđ justis peticiōibz
vris nos libnti⁹ exaudire debeam⁹ T. me ipo apd Rokingh
xxj^o die Feb⁹.

Sub ead forma scb⁹r Baroñ et Militibz de Lageñ. \

[Patent Roll, T. L. 8 John, m. 1.]

Rex &c. Galfo de Lascy, Huġ de Lascy, Rob de Lascy, Guif Petit, Riċ de Tut, Ade de Hereford, Philip de Prendgast, Guif Baroni de Nas, Johi de Clahyft, Mauriċ de Lond, Thoñ de Heref et ceteris Bař Lageñ et Mide salm. Miramur pñm sup mandato qđ noř fecistis p łras vřas patentes uñ videt noř qđ novā assisā creare paratis in łra nřa sine noř qđ est inauditū łpe añcessoř nřoř et nřo scit qđ assisa nova statuat in łra alicuj sine assensu principis łre illi in justū enim et inusitatum est hacten qđ petistis scit qđ Justiċ nř Hibnie reddit alicui aliq s pcepto nřo qđ capť est in manū nřam p pcept nřm uñ voř mandam qđ desistatis ab exaccione q facitis Justiċ nřo de Offalia q'a Nolum qđ ipse uñ vel de aliquo tenemēto qđ capť sit in manū nřam ex pcepto nřo alicui respondeat sine pcepto nřo Ad h aut qđ noř mandastis qđ non deficietis Dño vřo quin jus suū pquiratis Sciatis qđ nos jus nřm Deo juvante pro loco et tempore pquiremus. Teste me apđ Danecastř xxiiij die Maii coram W. Canċ et W. Briw.

[Patent Roll, T. L. 9 John, m. 4.]

R. oib &c. tocius Hibñ &c. Bñ scitis qđ sicut tenemř jura vřa manutenere et tueri ita teneñi jura nřa in omib consvare et defende Et q nolum qđ deducamini a mº nisi p legē et judiciū nec qđ aliquis voř p voluntatem aliqđ aufat nec vos possit dissaisire de libis teñ vřis injuste aut sine judicio nec qđ in placitum ponamini de libis teneñtis vřis p alicujus bře nisi p nřm vl Justiċ nři q'n Justicia voř inde p nos exhibeat Voř firmitř phibemus qđ in fide qª noř tenemini non respondeatis p aliquo nec in alicuj Curia de libis teñ vřis nisi p pceptū et bře nřm vl Justiċ nř et qđ de nullo placito coron respondeatis nisi coram noř vl Justiċ nřo vl coram Justiċ quos nos vel idē Justiċ miřim inter vos p jure tenendo Et sitis eidē Justiċ fidel in auxiliū ad hoc ita teñdū Et si quis qª hoc venire aut vos molestare psumpsit recurratis ad pdēm Justiċ nřm cui injuxim qđ id voř emdet cum posse nřo et

auxilio nro q̄ hoc ita firmū tenēi volum⁹ et ꝑcipim⁹ Prohibem⁹ et insup forisfcuram vite et membroꝝ qđ nlls vendat vel emat p aliā monetā q̄ p monetē nram Hib qm eā p totū Regnū currere volum⁹ et nō aliā. T. me ipō apđ Wudesē ix° die Nov.

[Close Roll, T. L. 9 John, m. 6.]

Rex M. Justiĉ Hibñ &c. Mittimus ad vos in Hibñ Philīp de Wigori et Roeland Bloet et Magr̄m Rob de Cicestr dilcōs et fideles nros ad vidend statū nrm et t̄re nre Hibñ et ut inf̄sint Consiliis vris et negotiis nris expediendis Mandam⁹ aū voḥ qđ eos ad Consilia v̄ra vocetis et iueniatis ꝑdco P̄ho se alio milite et Roeland soli et Magro Rob ad duos equos necēia dum voḥcū morā fecint. Teste W. Briwer apđ Clarendon xxj° die Marĉ.

[Close Roll, T. L. 14 John, m. 4. dors.]

Rex W. Coñ Marescaſt Coñ Pemḥ &c. Grates retulim⁹ baronibꝝ et fidelibꝝ nris Hyḥ p lit̄as nras eis directas de bono et fidei ſvicio suo et de saĉmento fidelitatis nup nob ꝑst̄ito sed voḥ tāq̄ huj⁹ rei n̄cio a cuj⁹ Consilio et mera voluntate rē istā nō dubitam⁹ emanasse p qm eciā oīes alios ad hoc pnos habuim⁹ et devotos specialiores ref̄im⁹ gr̄aꝝ accōes De bona aū volūtate veniendi ad nos in Angl voḥ ḡtes multiplicam⁹ sed ad hoc licenciā voḥ dare nō possum⁹ ad ꝑsens q'a dñs Norwiĉ ep̄s q' mltum se laudavit tā p lit̄as suas qm p nuncios ad nos destinatos de fidei consilio et auxilio v̄ro ꝑsencia v̄ra q̄ nob necēia est in ptibꝝ Hyḥ ad ꝑsens carere nō posset uñ vos rogam⁹ q̄tin⁹ in ptibꝝ ill morā faciatis assistentes eid epō ad agenda nra felicit̄ expedienda ut ubius voḥ semp̄ grates mltiplicare debeam⁹ Mittim⁹ aū ad vos transep̄t lit̄aꝝ patenciū quas Magnates nri Angl nob fecer̄t et vos rogam⁹ q̄tin⁹ vos una cū cet̄is Baroñ nris Hyḥ qsilibꝝ lit̄is sigillum vrm apponatis De qsilio aū v̄ro qđ nob mandatis de pace ecclie facienda voḥ mandam⁹ qđ ꝑviso p Comune Concilium fideiū nroꝝ de ptibꝝ illis sub qua forma lib̄tate nra et jure nro illesis pax ista posset q̄formari formā q̄

a q̄silio v̄ro emanav̄it nob̄ scire faciatis Mandam^o aūt vōb qđ meli^o p̄videatis filio v̄ro qui ap̄d Nos est q̄ sñ equitatura est et sñ roba et si volūitis īveniem^o ei nec̄cia nobiscū ad custū n̄rm et tradem^o eū alicⁱ de militibz v̄ris s. Joñi de Erleḡ v̄l alii qui cū eo sit et si id nolūitis id nob̄ siḡficetis p̄ littas v̄ras patentes et testificantes qđ nō recedet a nob̄ sñ licencia n̄ra et qđ v̄s de expensis f̄it v̄ri quas ei īvenim^o respondebitis, alioqⁿ nos id f̄i faciem^o et recupabim^o erga vos qñ pōtim^o. Ad hoc aū qđ credebatis et vōb dictū fuit qđ filiū v̄rm mitte volum^o in Pictav̄ ī v̄tate sciatis qđ nūq̄ hoc in mente habuim^o nec īn aliq^d audivim^o nⁱ a justic̄ n̄ro qui hoc nob̄ dixit.

[Patent Roll, T. L. 1 H. 3. m. 13.]

Rex Archiep̄is, Ep̄is, Abb̄ibz, Cōm, Baronibz, Militibz, & Libe Tenentibz & om̄ibz fidelibz suis per Hib̄n constitutis sal̄ Fidelitatem v̄ram in Dño cōmendantes q^m Dño P^{ri} n̄ro semp̄ exhibuistis & nob̄ estis diebz n̄ris exhibitⁱ Volum^o qđ in signū fidelitatis v̄re tam p̄clare tam īsignis lib̄tatibz regno n̄ro Angl̄ a P^{re} n̄ro & nob̄ concessis de gr̄a n̄ra & dono in regno n̄ro Hib̄n gaudeatis Vos & v̄ri Heredes ī p̄petuū quas distincte in sc̄ptū redactas de Cōmuni Cōsilio omniū Fidelīū n̄roz vōb mittim^o signatas sigillis Dñi M. Āp̄lice sedis Legati & fidelis n̄ri Cōm W. Maresc̄ R^{toris} n̄ri & regni n̄ri q^a sigillū nōdum h̄uim^o easdem p̄cessu tēpis de majori cōsilio pp̄o sigillo signatⁱ. T. ap̄d Glōc vj^o die Feb̄r.

[Close Roll, T. L. 2 H. 3. p. 2. m. 15. dors.]

Mand̄ est G. de Mār Justic̄ Hib̄n qđ tallaḡ & efficax auxiliū civitā Burgis & dñicis Dñi R. imponi faciat una cū Dño H. Dubl̄ Archiep̄o cui id datū est in mandatis & qđ petant a Regibus Conhac̄ & Todmund & aliis Regibz & Hib̄n & Baronibz & Milī qui de Dño R. tenent in capite tā efficax auxiliū qđ Dñs Rex benignior eis semp̄ inveniat^r. in agendis suis expediend̄. Et mandāt est eis qđ pecuñ illā collectā p̄ nuncios discretos fidel̄ q^mcius pōint in Angl̄ Dño R. transmitant sīc melius vidint expedire. dat̄ ap̄d Cāvesh̄ x^o die Nov̄ an^o s̄cdo.

[*These Rols. T. L. & H. 3. m. 6. dem.*]

Rex Thome fil Anton salū Fidelitati v're volum⁹ innotescē qđ p^r mortē bone memorie Dñi J. Reg^{is} p^ris n^ri de dñicis vel redditibus assisis v^t escaetis t^re n^re Hybū nichomnino pcepim⁹ de quo nō imito movemur & miramur Galfr^{us} quid de Marisc^o Justic^{is} n^ri Hybū cū i p^rencia n^ra constitut⁹ i Angl^{ia} finē fecisset nobiscū p^r satisf^{ic}ōe nob^{is} faciēda de hūis q^{ue} mūn^{us} egat & dñe nob^{is} constituisset de fine illo nob^{is} reddendo convencionādo nob^{is} firmū qđ custodibus castrorū n^rorū et sūptibus eorū moderamē ipon^{eret} & de ip^sis custodibus nos securos redderet p^r obsides & cartas eorū de ill^{is} amovendis & aliis p^r volūtate n^ra substituendis & de fideli eorū s^{er}vicio & h^{ab} omnia tā juramēto q^{uā} sc^{ri}pto inī nos conf^{ic}o cui app^resa sūt Dñi Dublin Archiepⁱ & ip^sius Galfr^{ici} sigilla firmasset nich^{il} ho^{rum} omniū observare curavit Immo cū nos firmū p^rcepissem⁹ & e^{ss} in convencōe p^rōca insertū qđ omⁿs t^re n^re Hybū p^rvent⁹ tam de finibus q^{uā} de oībus aliis ad maⁿū Thaurarū n^ri & celo^{rum} Baillo^{rum} n^rorū Soc^{iet}ū n^ri Dublin devenirent & p^r eorūde^m maⁿū fieret inde qđ p^recipem⁹ d^eus Galfr^{ici} de Marisc^o nichomn^{us} d^eos p^rvent⁹ in sua fecit recipi Camā potius p^r volūtate sua inde disponēs q^{uā} n^ris mandatis obtēpans Unde mūto ad hoc p^rvocati ut ip^sam t^re n^re Hybū de celo^{rum} p^reesse n^{on} velim⁹ de Cōi Consilio n^ro & assensu Magnatū et fideliū n^rorū Angl^{ia} statuim⁹ & volum⁹ qđ ve. p^r H. Dublin Archiep^{us} t^re illi^{us} custodiā fiat & curā sub nob^{is} don^{et} aliud inde statuim⁹ Et ido vob^{is} mādā^m firmū injūgētes q^{uā}tin⁹ eidē Archiep^o tamq^{uā} Ballivo n^ro in oībus respōdētes sitis & intēdētes. T. H. &c. ap^{ud} Westm^{onasterium}. xvij^o die Jul.

Eodē m^o sc^{ri}bit^{ur}.R. Regi Conna^{ch}

O. Regi Keneleon

Dunekan Obren

Muriardac Obren

Deremod Macarathi

Loueth Mac Donewhod

Walf de Lascy

Thoim de Galiwoie Com^{itis} de Athoyl

Roß de Mandevill
 Walſ de Logan
 Joñes de Cestř
 Roĝ Pipard
 Galfř de Costentin
 Walſ de Ridelesford
 Rič Tyrel
 Milo le Bret
 Roĝ Waspail
 Pñ de Prendegast
~~Thomñ fi Antoñ~~
 Ričs de Cogan
 Odo de Barry
 Rič de Burgo
 Roß de Karrew
 Patrič de Curcy
 Roß de Poher.

sic in orig.

[Close Roll, T. L. 12 H. 3. m. 8.]

Rex dilco & fideli suo Rič de Burĝ Justič suo Hibñ salřm
 Mandam^o voß firmit' p̄cipiētes q̄tin^o čto die & loco faciatis
 venire corā voß Archiep̄os Ep̄os Abb̄es P̄iores Comites & Ba-
 rones Milites & libe tenētes & Balliōs singloꝝ comitatuū &
 corā eis publice legi faciatis cartā dñi J. R. p̄ris ñri cui
 sigillū suū appensū est quam fī feč & jurari a Magnatibꝫ Hibñ
 de legibꝫ & q̄suetudinibꝫ Angl̄ obšvand ī Hibñ Et p̄cipiatis
 eis ex pte ñra qđ leges illas & q̄suetudies in carta p̄dča
 qtentas de celo f̄mit' teneāt & obšvēt & hoc idē p singlos
 comitat^o Hibñ clamari faciatis & tenēi phibētes f̄mit' ex pte
 ñra & sup forisfcurā ñram ne quis cōt^a hoc mandatū ñřm
 venire p̄sumat eo excepto qđ n^o de morte n^o de catallis Hib-
 nensiū occisoꝝ nich̄ statuat' ex pte ñra cit^a Q̄ndecim dies a
 die Sčī Mich̄ anno ř ñ xij sup quo respectū dedim^o Magna-
 tib^o ñris Hibñ usq̄ ad t̄minū p̄dčm T. R. ap̄d Westm̄ viij
 die Maij anno xij^o.

[Close Roll, T. L. 13 H. 3. m. 1. dors.]

. salt Sciatis qđ cū fuissem^o apđ Portesin a die
 Scti Michis ī xv dies pati ad t^{ns}fretand siē firmit^r pposuam^o
 venit illuc ad nos Comes Britan nob fecit ibid de
 Britannia tenenda de nob Cumq de t^{ns}fretacōe nra in Coim &
 Barones nros long^o hret^r t^{ctat}^o tandē p consiliū pdcoz . . .
 Britan distulim^o passagiū nrm usq ad instans clau^s Pasch
 anno &c. xiiij^o unde nō optet qđ ad psens ad nos veniatis in
 Angl siē p^{us} vo^b man . . . dno idubitant^r sum^o t^{ns}fretat^r
 ad pdcm iminū clau^s Pasch vo^b mandam^o fmit^r injun-
 gentes in fide q^a nob tenemini q^{atin}^o nullo m^o
 ap Lond die Dñica in ramis Palm anno &c. xij^o te q^{nto}
 Militū ita pati eq^s & armis ad t^{ns}fretand cū corpe nro qđ
 vo^b ad multiplices grāz teneam^r xxvj^o die
 Oct^r anno &c. xiiij^o.

. veniret in
 xv dies & videlicet

Walfus de Lascy se q ^{nto}	Joñ de Clahull se al ^o
Huğ de Lascy se v ^{to}	Steph de Hēford sol ^o
Walfus de Ridelēford se al ^o	Huğ Tyrel se al ^o
Maur fit Gerold se ficio	Pañcius de Curcy se al ^o
Math f Griffin se al ^o	Riç de Sço Mich sol ^o
Pñ de Bar se al ^o	Joñ f Thoñ solus
Wifls de Lascy se al ^o	Gerold de Rupe sol ^o
Theob Pinçna se ficio	Joñ fit Dormot sol ^o
Wif de Marisco se al ^o	David Basset
Gerold de Pūdegast se al ^o	Niç Pvus.
Wif de Wigorñ se al ^o vl sol ^o bn pat ^o	
. Galweya & Alano de Galweya qđ ipi	
sint ad eund iminū cū equis & armis ad t ^{ns} fretand cū R.	

[Patent Roll, T. L. 28 Hen. 3. m. 5.]

R. Comitibz Baronibz & aliis p^{bis} hōibz & Comunitati
 tocus Hib salm Sciatis qđ concessum vo^b qđ svicium quod
 a vo^b exigimus ad presēs ad veniendum ad nos ad expedicōem
 exēcit^o nri sustentand si contingat qđ fī debeat ext^a Hybñ

impostum non verteret' voſ in conſequenciam v̄l ꝑjudicium libtatis v̄re prius uſitate. In cui⁹ &c. T. R. apud S̄cm Albañ xj^o die Juñ.

R. omibz &c. ſal̄m Sciatis qđ ſvicium qđ Magnates n̄ri & alii fideles n̄ri de Hybñ ad presens nob̄ facient veniendo cū equis & arm̄ nob̄cū in expedicōe in Scoč contra Regē Scoč g^{at}is & spontanea voluntate ſua id nob̄ conſeſſerūt & ne gr̄a iſta q^m nob̄ faciēt ip̄is aut heredibz ſuis poſſit impoſtum ꝑjudicium generare aut trahi in conſuetudine id ꝑſenſium tenore ꝑteſtam^r. In cui⁹ &c.

R. omibz &c. ſal̄m Sciatis qđ oēs priſas quas Mauric fit Geŕ Juſtič n̄r Hybñ capiet ad expedicōm exercit⁹ n̄ri Hybñ quem ad ꝑſens fecimus vocari ſuſtentand̄ & miſas q^a ad ſuſtentacōm ejusdem exēcit⁹ ꝑ viſum & testiſiōn̄ ꝑboꝝ et leḡ hominū ponet reddi & eidem allocari faciemus. In cui⁹, &c.

R. Theſ & Baronibz de Sce^oio ſuo Dubt ſal̄m Alloč ꝑbis homibz n̄ris de Dublin Drocheda Waterford & Corč in firm̄a ſua tam de tempore moderno q^m futuro id quod poſuñt in exēcitū n̄ro & totum id quod ꝑ Hybñ captum fūit ꝑ viſū & testiſiōniū leḡ homin̄ ad dēm exērcitum ſuſtentand̄ de Theſ n̄ro Hybñ plene reddi faciatis. In cui⁹, &c.

[Close Roll, T. L. 28 Hen. 3. m. 7. dors.]

Rex Dovenald Regi de Tirchuniſt ſal̄ Cum ꝑvocante nos injuria Reḡ Scoč j̄a nos ꝑparaſimus inſurgē in ip̄m ꝑ ꝑlibz transgreſſōibz q^as nob̄ fecit ulciſcendis nⁱ ip̄as g^{at}is nob̄ emendare voluñt de dilciōe v̄ra cōfidentes qđ in hac expedicōe n̄ra auxiliū v̄rm nob̄ denegare nō velitis voſ mandamus rogantes quatinus una cum Juſtič n̄ro Hybñ & aliis fidelibus n̄ris Hybñ qui in ꝑximo ad ꝑtes Scoč ventⁱ ſūt ad inimicos n̄ros ibidem g^{av}andos talem & tam potentē ſuccurſum nob̄ impendere velitis ꝑſonali^r veniendo cum ip̄is bona gente muniti qđ in neceſſitate v̄ra ad nos cōfidencius confuēge debeat̄ Nos ꝑ ſuccurſu v̄ro ad ꝑces voſ impendendo gr̄am quam a nob̄ ꝑecieritis libenci⁹ voſ teneamur imptiri cum ſpeciali gr̄aꝝ accione. T. R. apud Staunford vij^o die Jul.

Felimno filio quondā Reḡ Oraly

O Hanlan

Bren Onel Regi de Kineluñ
 O Chatañ
 O Hynery
 Dovenald Mackadinel
 Mac Anegus
 Mac Kartan
 Mac Gilemuri
 O Flen Regi de Turteri
 Mac Mathaven
 Mac O Calivery
 Conehor O Briū fīl Dunetaū Carbrach de Thodmond
 Cormaclethañ Macardhy de Dessemon
 Ros O Felan de Dessia
 Ričo Machermekan de Dessia
 Corč Ocheuñ de Fermuy
 Shonethor Olafferty de Cořrac
 Macthulan O Kellye de Ochonyl
 Murchod Macbrin de Natherlach.

R. G. de Predegast salēm Licet de fideli ſvicio v̄ro prius
 plūmum confideremus tamen inde deceſo ſi fieri poſſit plus
 confidimus eo qđ in negocio n̄ro ad ſerviciū n̄m ita potent̄
 accinxistis parati ad mandāt n̄m inimicos n̄ros ḡvare & ūras
 eoꝝ viriliter invadere ſup quo voſ uberes referim⁹ ḡraꝝ
 acciōes p̄nam h̄ntes voluntatem vos p̄ tempore condigne re-
 ſpicere & p̄ meritis multipliciter honorare Quia vero A. Rex
 Scoč illustris ad honorem & placitum noſtrum & Magnatū
 n̄roꝝ ſe nob̄cum pacificavit b̄n̄ potestis ad preſens ad p̄pria
 remeare rogamus in attencius fidelitatem v̄ram q̄tinus vos
 preparetis ad ſviciū n̄m cont̄a eſtatem futuram ad inimicos
 n̄ros invadendos q̄ndo & ubi voſ ſcire faciemus. Ita qđ
 multiplices honores & dignas remuneraciōes a nob̄ inde me-
 rito reportare debeatis. T.

Eodem modo ſcribitur Joñ de Cogañ
 Joñ fīl Thoñ
 Ade de Staunton
 R. fīl R. fīl Nich
 P. de Bermingh

R. Tut.
G. de Norhach
R. de Cogañ &
B. Flemenġ

Et omnibꝫ ꝑscriptis Hyberniensibꝫ.*

* One of the above Writs has been copied into the new edition of Rymer's *Fœdera*; but as the preceding document addressed to the Irish Chiefs is not also given, the record appears in an imperfect and unsatisfactory form. The occasional introduction of some detached and generally unimportant instruments relative to Ireland into that work, is much to be regretted, as it must tend to an erroneous impression, that the edition embraces all necessary documents relating to that country, and may hereafter prevent the publication of a regular series of State Records, or *ACTA REGIA*, for Ireland. Such a collection would be of considerable importance, from the following reasons:—Some of the earliest and most authentic expositions or declarations that we now have of the ancient Common Law of England, are principally to be gathered from state documents issued for Ireland; most of the public events, transactions, and negotiations in which the English kings were engaged at home or with foreign powers, are detailed in writs and other records also transmitted to that country; and during the reigns of John and his immediate successors, the records bearing on Ireland disclose many essential *data* as to the history of dignities and of public rights generally in both countries. Now, few of the records alluded to appear in this last edition of Rymer, and until they be published, we must lament the want of such valuable information. Laws and rights well known and observed formerly in England were not recorded, unless under particular or perhaps accidental circumstances; but when such were transmitted for execution or observance to a distant kingdom, they were of necessity committed to writing, and preserved by registration for posterity: impressed with this opinion, the Author long since conceived that no enquiry into the Baronial or Legislative History of England could be satisfactorily completed, without strict examination of all records relating to Ireland previous to the middle or end of the fourteenth century. This idea strengthened as he proceeded in the present work; and after seeing the important collections made on those subjects by one individual, (Mr. T. D. Hardy,) he found the correctness of his opinion fully established. Whenever the *Acta Regia* for Ireland may be undertaken, it is sincerely hoped that Government will not permit it to be executed by a system of *deputation*, but that its execution be entrusted to the most zealous and intelligent officers of the several record departments, each of whom should have full credit for his individual labours; by this means, and by excluding all modern and erroneous copies of records as authorities where originals could be found, with due attention to the orthography of proper names, such officers possessing the necessary qualifications, would have every desire to produce a creditable public collection.

[Patent Roll, T. L. 29 H. 3. m. 1.]

R. Thes. & Camei suis Dublin salū Mandam⁹ vobis qđ de The^s nro Hybñ faciatis ĩre iij^m milibz ſvienti podit de Hybñ qui veniunt ad ſvicium nrm usq. Gannok cum Justiĉ nro Hybñ quoz quilihet capit ij deñ in die libacōes suas p decem dies videñt a die Venlis pñima post feſt Bī Luce Ewang a^o &c. xxix^o usq. ad diem dñicam in crastino Aploz Simōis & Jude anno &c. xxx^o utq. die computata. T. R. apud Gannok in Caſt^rs xxj^o die Octobñ.

[Patent Charter and Vassal Roll, T. L. 37 & 38 H. 3. m. 10. p. 2.]

R Archiep̃s Ep̃is Abbibz Prioribz Comitibz Baronibz Militibz & om̃ibz hñis hñibz suis de fra sua Hiberñ salū. Bene constat uniſſatē ĩre qđ nobis auxiliū debetis ad p̃mogenit Fil nrm militem faciend & quia nob urgentissima necessitas instat uniſſitatem ĩram affcūse rogamus monem⁹ & exortam^r q̃tin^o tale nob auxilium ad p̃dēm fit nrm militem faciend facere velitis p quo nos & heredes nros ad honores & beneplacita ĩra ppetuo teneatis p̃mos & inclinatos. T. ut sup^r. apđ Girund v. die Aug.

Eodem modo & p eadem verba scribit^r eisd ad p̃mogenitam Filiam Rⁱ maritandam. T. ut sup^r.

[Patent Roll, T. L. 38 H. 3. m. 4.]

Rex Venerabilibz in Xpo patrībz om̃ibz Archiep̃is Ep̃is & dñcis sibi in Xpo Abbatibz & Prioribz & dī & fī suis uniſſis Coñ Baron Militibz & aliis fidelibz suis Hybñ salū Mit-
timus dī & fī nrm J. filium Galfi Justiĉ nrm Hibñ ad ptes Hibñ ad exponendum vob statum nrm & terre ĩre Vascoñ & pēcula nobis iminencia & ad tractandum vobiscum sup aux nob faciendo contra Regem Castell qui dñam ĩram nram Vascoñ in manu forti in quind Pasch pñimo futi hostilit^r est ingressu Vob mandantes qđ eidem Justiĉ nro in hiis que vob ex pte nra sup p̃dēo aux pquirendo intimabit fidem adhibeat. In cujus &c. T. A. Regina nra & R. com. Cornub apud Westm ij^o die Febi
p Reginā.

[Patent Roll, T. L. 38 H. 3.]

Rex Archiep̃is Ep̃is Abbib Prioribz Comitibz Baron Militibz libis hominibz Civibz Burgensibz & om̃ibz aliis fidelibz

suis t're sue Hibñ salm Mittim^o frēm Nicñum de S'co Neoto
frēm Hosp̃ S'ci Johis Jerlm in Angl̃ ad ptes Hybñ ad ex-
ponend voß una cum J. fit Galfri Justic nro Hibñ statum nrm
& t're nre Vascoñ & picula nob iminencia de hostili adventu
Reġ Casteñ qui nullo jure set potentia sua confisus terram
nram Vascoñ p ipius fortitudinem a manibz nris auferre & a
dnio regni Angl̃ segregare proponit universitatem vram quan-
ta possum^o affectione rogantes q^atinus nos & jura nra talit'
indefensa non deserentes nob in tanto piculo constitutis q^an-
tumcumq; in mundo potitis de gente & pecunia ad pdcē t're
nre defensionē quam pdcūs Rex in manu forti in estate
pximo futā hostiliter est ingressurus subveniatis qđ in vrm
honorem vtet^r sempiternum cum ex cont^aio hujus negoç eventu
non tantum nob set singulis regni nri & t're nre Hibñ p^rum
& rerum dampnū imineat piculosum. Hiis nris angustiiis
talit' compatientes qđ nos & hered nri voß & hered vris
sumus non immūto obligati. In cujus &c. T. ut sup^a. xvij^o
die Febr. p Reginam.

[Close Roll, T. L. 39 H. 3. m. 8. dors.]

R. Eduuardo fit suo p'mogēito & hedi salm & pañnam bñ :
accedens nup ad p'senciam nram verſabit pal F. Tuameñ
Archiep p se & suffraganeis suis nec nō & ex pte toci^o cleri
Hibñ una cū Epo Aladñ coram nob exposuit quedā g^avamīa
quibz Hybñicana ecclā g^avil^o opp'mit^r & enormi^o pgravat^r adi-
ciens eī qđ nisi mat^rius hiis apponē remediū curarem^o pdcā
ecclā suis juribz & libtatibz defraudata obpbriose torquet &
vili^o tendet in occasum primo quidē querit^r qđ ipi & tenentes
eoꝝ cont^a antiqs libtates ecclāꝝ suaz t^ahunt^r in placitum coram
Justic ex^a suos comitat^o ad alias pvincias ita qđ p laborem
nimiū & expensaz defc̃m litibz cede vt dampnosas compoi-
cōes inire cogunt^r S'cdo qđ quidam Justic Vicecom̃tes & alij
bafñ nri in loquelis coram eis motis paciscunt^r cum una pte
de luc^o picipando p quod alā ps cito labit^r in jacturam &
jure suo legitimo defraudat^r quod q^am g^avil^o ferim^o & moleste
cū no solum clicos vum eī uniſsalem plebem Hybñ anxius
angit hoc g^avam T^rcio qđ fiunt frēqñcius attachiam̃ta & sum-
onicōes in t'ris ipoꝝ sñ waranto que pecūiali^o cogunt^r redimē

vī laborem & tediū de Cōm in comitatū discurrēdo subire
 Quarto qđ quidam Barōn Hybñ impediūt quo min⁹ fideles
 Hybernienē de bonis suis testari valeant & quomin⁹ c⁹cesig⁹ti
 votū suū complere valeant vī illud redime cū volūint Quinto
 qđ Burgen & alij tenentes eoꝝ dstringunt ad seq̄las faciendās
 in cāis non tangentibꝫ dēos Ep̄os vī se ip̄os Et qđ hec g⁹-
 vāmīa ecclē Hybñicane inferunt cont⁹ jura & libtates suas
 quibꝫ eadem antiq̄t⁹ est gavisā uñ cū nram deceat regiam
 majestātē v̄req̄ cōviciat utilitati cong⁹at & honori jura & lib-
 tates ecclē defend⁹e & potenti par⁹cinio confose afflictisqꝫ com-
 pati & refrenare rebelles vob̄ mandam⁹ firmit⁹ injūgentes qđ
 cōvocatis coram vob̄ Archiep̄is Ep̄is Abbibꝫ Barōn Justic⁹ &
 omibꝫ Magnatibꝫ īre Hybñ p̄ consiliū dilcī & fidel⁹ nri Johis
 fit Galfṛ Justic⁹ Hybñ & alioꝝ discretoꝝ de consilio v̄ro nec non
 & de consilio magnatū p̄dcoꝝ in p̄missis apponi fac̄ celerit⁹
 remediū oportunū put ecclē indemnitati & v̄re & īre Hybñ
 utilitati & t̄nq̄llitati videritis cōvenire Quo dec⁹ ecclē c⁹scat
 p̄ vos & v̄re novitatis p̄ncipiū laudis suscepiat inc⁹mentū ap-
 possuisse aū in p̄missis remediū nisi vest⁹ in Hibñ p̄sens
 fuisset accessus pp̄i quod vob̄ & consilio v̄ro hoc negocium
 duximus totalit⁹ comittendū. T. R. ap̄d Notingh̄ xxx die
 Jul.

[Fine Roll. T. L. 3 E. 1. m. 24. dors.]

A la novele custume ke est g⁹nte par touz les granz del
 Realme e par la piere des Comunes de Marchanz de tot
 Englefre est p̄veu ke en chescun conte en la greinere vile ou
 port est seient esluz deus des plus leaus e plus pussaunz ke
 averont le une pece de un seel en garde e un ke sera assigne par
 le Rei aura un aut⁹ pece eseront jurez ke leiaument rescei-
 veront & responderont des def⁹s le Rei cest a sav⁹ de chescun
 sak de laine demi mark e de chescun treis cenx de Peaus ke
 funt un sak demi mark e de chescun last de quyr un mark
 ke isteront hors de Realme ausi ben en Hirlande en Wales
 come en Engleterre dedenz fñchise & de hors. Estre ceo &c.

[Same Roll, m. 24. dors.]

Rex dilcō et fideli suo Galfṛo de Genvill Justic⁹ suo Hiḃ salṫm
 Mittimus vob̄ formam nob̄ ab Archiep̄is Ep̄is Abbibꝫ Prioribꝫ

Comitibz Baronibz Majoribz et tota 9tate regni nri de diñ marca de quolibet sacco lane et de diñ marca de singlis trescentis pellibz levatis que faciunt unum saccum et unā marcam de qualibet lesta coriorum exeuntibus regnum nrm Angl et tram nram Wast liberaliter concessam p̄sentibus interclusam Et quia volum⁹ qđ dicta consuetudo nob in tra nra Hiberñ concedat⁹ & šilimodo capiatur Vob mandam⁹ qđ Archiepōs Epōs Abbēs Priores Coñ Barones cōitates et M̄catores de tra p̄dca modis quibz expedire videritis inducatis ad concedend nob consimilem consuetudinem percipiendam in tra p̄dca in forma p̄dca. Et Lucā de Luk et socios suos m̄catores de Luk & Bonasiū Bonahucij & socios suos m̄catores de Florence q's ad dcam consuetudinem in terra p̄dca colligendā et capiendā deputavim⁹ admittatis et sibi in omibz tam scilt super ordinacōe sigillorum nroꝝ que ad hoc fieri fecim⁹ et vob transmittimus q^a super aliis que dcm negotium contingunt consulētes sitis et auxiliantes prout iidem mercatores vob scire facient ex parte nra. Et ita vos heatis in hoc mandato nro exequendo qđ diligenciam et circumspeccōem vram in p̄missis merito comendare possimus. T. R. apud Westm̄ xxv° die Maii

[Fine Roll, 3 Edw. 1. m. 29. dors.]

Rex dilcō et fidel suo Galfro de Genvill Justic suo Hib salm Mittim⁹ vob formam nob a quibusdam Magnatibz terre nostre Hiberñ concessam de dimidia marca de quolibet sacco lane et de diñ marca de singlis trescentis pellibus levatis & de una marca de qualibet lesta coriorum exeuntibz tram nram Hiberñ percipiend in singulis portubz terre nostre Hiberñ tam infra libtates quam extra per manus Custodum et Balloꝝ nroꝝ ad hoc deputandoꝝ sigillis dcoꝝ Magnatoꝝ signat vob mandantes firmiter injungentes qđ consimilem formam sub noibz Prelatoꝝ & alioꝝ Magnatoꝝ regni nri fieri & sigill eoꝝ signari faciatis & mercatoribus nris quos ad dcam consuetudinem ibidem capiendā assignavim⁹ consulentes sitis et auxiliantes in premissis put ipi vel eorum certi attornati vob scire facient ex parte nra Et qualiter hoc mandatum nrm fueritis executi nos inde q^a citius poteritis reddatis certiores. T. R. apud Westm̄ xxv° die Maii.

[Welsh Roll, T. L. 10 E. 1. m. 3.]

R. dilco et fid suo Thome de Clare salū Cum uniṽsi & singli fideles nri inf^a regnū seu potestatem nram constituti cum ipoꝝ subsidio indiguerimus nob cum opus fuerit subvẽire teneantur & nos propter motionem Walensium contra nos ad eorum maliciam reprimendam pecuniam plurimum indigeamus Nos de fidelitate diligencia & circumspeccōe ṽra fiduciam gētes spalem voḥ mandamus in fide & dītcoē quibz nob tenemini firmiter injungentes qđ assūpto vobiscum dilco clerico nro Maḡro Johē de Saunford Escaetore nro Hibū colloquium & tractatum hēatis nomine nostro cum Abbatibz Prioribz et aliis viris religiosi Civibz Burgensibz M̃catoribz ac Cōitatibz Civitatum Burgorum & Villarum Mercatoriarum Hibnie aliisq; personis de quibz in tris nris patentibz quas voḥ & pfato Johi tⁿsmittim^o mencio fca est sup mutuo pecunie ad opus nrm divisim seu conjunctim faciendo juxta singlaꝝ hujusmodi personarum seu cōitatū facultates & ipos diligenciori & cauōri modo quo poteritis ad hoc moneatis & inducatis put ad opus nrm maḡ videritis expedire. Et ad pmissa facienda oīibz aliis negoç p̃termisiss diligēl intendatis Mandavim^o enim Abbatibz Prioribz & aliis psonis p̃dcīs put in dcīs tris nris patentibz videre poteritis plenius contineri quod voḥ & pfato Johi in hiis que ei dicetis de pmissis firmā fidē adhibeant & ea modis oīibz expleant que inde eis dicetis ex pte nra Mandavim^o eciam Justiç nro Hibū qđ singlis huj^omodi mutuum nob ibidem facientibz trās nras patentes sub sigillo nro quo in Hib utimur eis fieri faç dcēm mutuum testificantes & certum solucōis terminum juḡ discrecōem ejusd Justiç assignandā continentes. T. R. apud Thlangervon ij^o die Octobr̃.

Conšiles litte de verbo ad verbum dirigunt^r Maḡro Johi de Saunford qđ una cū pfato Thoma ad pmissa facienda diligēl intendaṽ in foꝝ p̃dcā. T. ut sup^a.

Et mand est S. Walforden Eḡo Justiç R. Hibū qđ cū R. assignavit p̃dcōs Thomā & Maḡrm Johēm ad mutuū ad op^o R. in tra Hibū noīe R. contrahend qđ singlis qui R. ibidē hujusmodi mutuū fecint et sibi p pfatos Thomā et

Joñem de suñma mutui illius constet fieri faciat tras R. patentes sub sigillo quo R. utit' in Hibñ suñmam dñi mutui testificantes & certũ solucõis tminũ juñ ejusd Justic discrecõm faciend continetes. T. ut sup^a.

Et mand est Abbibz Prioribz et omibz viris religiosi Viç Civibz Burgenš Mercatoribz Majoribz Ballis & Cõitatibz Civitatũ Burgoz Villaz M'catoriaz & omibz aliis fid Reg de tra Hibñ qd cũ R. mandavit pdcis Thome & Magro Johi qd quedã ardua et spalia negoç R. que R. eis p tras R. injuxit eisdem Abbtibz Prioribz &c. ex pte R. & noie R. oreten^o exponat & expedicõem eozde erga pdcos Abbtēs Priores &c. ut sup^a diligent pseq^{nt} eisdem Thome & Johi in pmissis firmã fidẽ adhibeant & ea mod omibz expleant que eis ex pte R. dicent de pmissis. T. ut sup Et sñt Patentes.

[Original Letters of Edward the First's reign, in T. L.]

Amongst the original Miscellaneous Records of the reign of Edward the First in the Tower is a letter officially written into England by some officer who had been sent by the King to seek an Aid from the Parliament of Ireland. From that letter it appears a Parliament was assembled at Dublin on Monday in the quindene of Hilary, and that on the officer's explaining his commission, the Barons, Magnates, and faithful Commons granted a Fifteenth to the King, saving however thereout their arms, equipage, treasure, and wardrobe.

There is no date affixed to this document; but from some passages in it, as also from some directions concerning the levying of a Fifteenth contained in a writ of the 21st Edw. I. now entered in the Red Book of the Exchequer, it would appear that the above Parliament was held in that year.

[Gascony Roll, T. L. 22 E. 1. m. 11. dors.]

R. diñ & fid suo Petro fiñ Jacobi de Bermyngh^m salñm Cum tractatus inter nos & Regem Franc hitus fuerit super quibusdam contentionibz & controversiis que fueñt inter gentes ñras & gentes Reg Franc sup^adñi ob quem tractatum nos obedienciam fecimus ipi Regi de quibzdam castris et villis de tra ñra Vascoñ sub certis convencionibus inter nos & ipm inde fcis & idem Rex convencõibz illis in nullo artiçlo obser-

vatis totam predcām ſram ſram Vascoñ in manū suam seisiri fecit & eam adhuc nob̄ detineat maliciose in exheredacōem ſri & Corone Angl̄ manifestam ac nos in istis rebz recuperandis consilium apponere non possumus sine Dei et bone gentis ſre quam istud fcm tangit cōiter & alioz amicoz ſroꝝ consilio p quod vos rogamus & req'rimus in fide & homagio quibz nob̄ tenemini firmit' injungentes qđ sitis ad nos in ppria psona ſra London j^o die Septembr̄ cum equis & armis ita decent' parati & p̄mpti ad transfretand' nob̄cum qđ ex eo vobis teneamur reg'ari & qđ de vob̄ possim^o nos specialiter comendare. Ita videlt' qđ ſre ſre scdm qđ opus fore videritis custodite remaneant & munite. Et istud negocium sicut comodum & honorem nrm diligitis & sicut de vob̄ confidim^o nullo modo omittatis. T. R. apud Portesmuth xxix^o die Junii.

Eodem modo de verbo ad verbum mand' est subscript' vid.

Riço de Burgo Comiti Ultoñ

Theobaldo le Butiller

Thome fit Mauricii

Johi Cogan

Johi de Barry.

[Close Roll, T. L. 23 E. 1. m. 3. dors.]

Mand' est Johi Wogan Justic' Hibñ qđ de pbioribz et validioribz hōibz ſre p̄dcē equitibz ad etum numū juxta discretionem suā & peditibz usq; ad decem millia sine ditone eligi faciat ita qđ eos heat p̄mptos & paratos & armis competētibz munitos ad etos diem & locum ad t'nsfretand' & pfiscend' in obseq'ū R. put R. p̄dcō Justic' injunxit ore ten^o Proviso qđ ſra p̄dcā nichilominus remaneat sufficient' munita. T. ut sup^a apud Westm̄ xvij^o die Octobr̄

[Same Roll, m. 3. dors.]

R. dī & fī suo Johi Poer saltm Cū injūxim^o dilcō & fid' nro Johi Wogan Justic' nro Hibñ aliqua vob̄ ex pte ſra vive vocis oraculo plenius referenda vob̄ mandam^o in fide & dileccōe quibz nob̄ tenemini firmit' injūgētes qđ eidē Johi in hiis que ex pte ſra vob̄ duxit exponenda fidem credulam p̄beatis. T. R. apud Westm̄ xvij^o die Octobr̄.

Conſ tre dirigunt' ſbſcriptis videt

Riço de Burgo Comiti Ultoñ	Willo Cadell
Galfro de Geynvill	Joñi de Vat
Theobaldo de Verdon	Thome fit Mauř
Petro de Brymmynghim de	Eustachio le Poer
Thetmoye	Joñi de Poer
Petro de Brymmynghim de	Huğ Porcel
Anery	Joñi de Cogan
Jordō de Exon	Theoß le Butiller
Adē de Staunton	Joñi de Barry
Simōi de Pheybo	Willo de Barry
Walfo de Lascy	Mauř de Carreu
Riço de Exon	Georgio de la Roche
Joñi Pipard	Mauř de Rocheford
Joñi fit Thome	Mauř fit Thome de Kery.
Walfo Lenfaunt	

[Black Book, Christ Church Cathedral, Dublin.]

Justiciarius hic de Communi Consilio Domini Regis in hac terra ad pacem firmitus stabiliendam ordinavit et statuit generale Parliamentum hic ad hunc diem. Et mandatum fuit Archiepiscopis Episcopis Abbatibus & Prioribus quorum presentia videtur ad hoc esse necessaria necnon & Comitibus Baronibus & aliis Optimatibus terre hujus viz. unicuique eorum per se quod essent hinc ad hunc diem, &c. Et nichilominus preceptum fuit Vicecomitibus Dublin Loueth Kildarie Waterford Typperarie Cork Lymerick Kerry Connacie & Roscommon necnon & Senescallis Libertatum Midie Weyfordie Katherlogh Kilkenny & Ultonie quod unusquisque eorum per se viz. Vicecomes in pleno Comitatu suo & Senescallus in plena Curia sua Libertatis sue per assensum Comitatus sui seu Libertatis eligi faceret duos de probioribus & discretioribus Militibus de singulis Comitatibus et Libertatibus quod hic nunc interessent plenam potestatem habentes de tota Communitate Comitatus et Libertatis &c. ad faciendum & recipiendum &c. & quod quilibet Vicecomes & Senescallus fuissent hic in propriis personis &c.

Et Thomas Midensis Nicholas Leighlinensis &c. Episcopi. Et Richardus de Burgo Comes Ultonie modo venit & similiter Ricardus Vicecomes Dublin Willielmus de Hache Vicecomes Louethie &c. Walterus Trouman Senescallus de Trym &c. similiter venerunt & brevia sua retornata Et Walterus de la Hay & Eustacius le Poer electi per Communitatem Libertatis Kilkenie Georgius de Rupe electus per Communitatem Comitatus Lymerick &c. venerunt.

Et Nicholaus Ardmachanensis Archiepiscopus & ceteri absentiam suam excusantes miserunt hic Procuratores seu Attornatos suos, viz. predicus Archiepiscopus N. & H. &c. et Willielmus Archiepiscopus Tuamensis &c. non venerunt Et similiter Hugo de Leis unus electorum per Comitatum de Lymerick, &c. non venerunt Ideo ipsi in misericordia Et in presentia predictorum Episcoporum Midensis Leighlinensis & Comitum & Baronum & aliorum Optimatum hic comparentium de Communi Consilio Domini Regis in hac terra facte fuerunt quedam provisiones & unanimiter ab omnibus concordate & concesse Salvo jure Domini Regis &c. Imprimis &c. [Here follow the Statutes then enacted.]

[Chief Rememb. Roll, Dub. 28 E. 1.]

Subsidium } Edwardus Dei gr̃a Rex Angliæ Dominus Hi-
Scocie. } berniæ & Dux Aquitañ Comitibus Baronibus
Militibus et certis Fidelibus suis per terram Hiberniæ constitutis salutem Sciatis quod cum ad salvacōem Corone nostre Regie cōemq; regni et [traꝝ] n̄raꝝ utilitatem jam ordinavimus et eciam pponamus esse in proximo festo Nativitatis Bī Joh̃is Bap̃te apud Karliolum cum equis et armis et subsidio Magnatum & Procerum n̄roꝝ ad pficiscendū exinde ad rebellionem Scotoꝝ inimicoꝝ et rebelliū n̄roꝝ cum Dei auxilio rep̄mendam ad quod negociū comodius exequendū v̄ro auxilio & subsidio indigemus dilcōs & fidel̄ n̄ros Joh̃em Wogan Justiciarium n̄m et Mag̃m Thõm de Cantok Cancellarium n̄m Hib̄ unacum Baronibꝫ de Scaccario Dublin assignavimus ad petendū & requirendū noīe n̄ro a vob̄ & quolt v̄m subsidium quod ad tam ardui negocii felicem consummacōem ac n̄ri et v̄ri commodum et honorem videbitur oportunum et ad oīia alia &

singla fač que pfati Justič Canč et Barones seu aliqui ex ipis quos ad hoc vacare contigerit sup pmissis & ea viderent facienda In cujus rei testimonium has lras nras fieri fecimus patentes. T. meipso apud Glydam xvij^o die Januař anno Regni nri xxvij^o.

Mandavit & consimilia bria omibz Civitatibus & Burgis per totam Hib propter que Justič summoñ fecit generale Parliamentum apud Dublin in quindeñ Pasch videñt qđ Prelati & Magñ omnes venirent ibi in ppriis psonis &c. et qđ Communitates Comitatum per duos tres vel quatuor ad hoc p ipsos electos & specialem potestatem habentes ac si omes fuissent presentes & similiter Communitates Civitatum & Burgorum per duos vel tres &c.

Set Justič ante Parliamentum illud decrevit alloqui Majores & Probiores Homines Civitatum & Burgoř ocčone predicti subsidii.

Et primo venit apud Drogheda sciñt in vigiñ Dominice in Ramis Palñ ubi porrectis litteris Dñi Regis Majori & Communitati Burgi illius p ipsum Dominum Regem directis & habito cum eis super hiis diligenti tractatu pdči Major Balli & Communitas ex utraque parte aque ad pmend benevolenciam Dñi Regis et gřam de mercandisis que emerunt per monetas inhibitas &c. optulerunt Domino Regi cclx marcas unde super villam ex parte Uriel cc marc & super villam ex parte Mid lx marc Et exinde pfatus Justič circūivit Civitates et Burgos &c. Et Major Balli & Communitas Civitatis Dublin &c. [The other proceedings of the Justiciary and the Parliament then assembled follow on the same Roll.]

[Chief Rememb. Roll, Dub. 3, 4 E. 2.]

Dñs R. mandavit bre suū sub pívato sigillo Justič Hibñ in hec verba.

Edwardus &c. Joñi Wogan Justič suo Hibñ salñm Cum ad maliciā & pñviam Rođti de Brus inimici & pditoris nri & suoř cōplicū & fautoř qui magnam ptem lre nre Scocie jam cont^a nos pdiçonalit occuparūt civitates villas & castra nra in ptibz illis existencia obsidendo necnō incēdia depđacōes &

homicidia inhumanit' cōmittendo cū Dei adjutorio virilit' rep'mend' diſſos Magnates & fideles űros Hibñ quoz noĩa in quadam cedula voſ mittim^o p'sentibz inſclusa p űras űras duxerim^o req'rendos qđ ipi in fō Nativitať Sđi Johis Bapť pxio futur' sint apud Novū Castrū sup Are cū equis & armis qnto potencius potunt ad pficiscend' exinde nobiscū & cū aliis fid' űris cont' inimicos & pđitores űros pđcos ad ipoz excogitatā maliciā repellendā & cū Dei potencia virilit' contendam voſ mandam^o qđ tam dilcos & fid' űros Ričm de Burgo Coñ Ultoñ Edmund le Botiller Johem fit Thome & Eustach' le Poer quibz jam huj^omodi űras űras deſcatorias misim^o qm alios Magnates & fid' űros in pđca cedula noiatos coram voſ venire fač & in ipoz oĩū p'sencia űras űras pđcas quas voſ mittim^o singūlarit' singul' eoz quibz directe fuñt libetis instantes penes quemlibet eozdem p se caučori & meliori modo quo videritis faciend' qđ voſ respondeat de eo qđ ad űri rogatū fače voſ in hac pte. Et noſ de responſionibz huj^omodi distincte & apte sub sigillo vřo cicius quo potitis constare fač Et hoc nullatenus omittatis. T. me ipō apud Brustwyk' xj^o die Novembř a^o ř ű űcio.

p bře de p'vato sigillo.

Parliamentum de Kilkenny.

R. Ričo de Burgo Coñ Ultoñ salm Quia sup quibusdam arduis negociis nos & statū ĩre ĩre contingentib' vobiscū ĩere volum^o t'ctatū spālem vobis mandam^o qđ sitis in ppř psoñ vřa apud Kylkenñ die Lune in octabis Puř Bē Marie ad t'ctand' & pliamentand' cū Justič űro Hibñ & aliis de Conſ & cū celis pceribz & magnatibz ĩre ĩre sup eisđ negotiis Et hoc nullaten^o omittať in fide qua noſ tenemini Et ĩeatis ibi hoc bře T. J. Wogan &c. apud Dub viij^o die Jañ anno ř ű ĩcio.

Consimilia břia mandata sunt diſſis hōibus in Hibñ videlč

Johi de Barry	Matho de Cauntetoñ
Johi de Cogan	Wilfo de Cauntetoñ
Mauř de Carru	Reymūdo Lercedekne
Mauř de Rocheford	Nichio de Curcy
Johi le Poer de Donyll	Pħo de Barry de Carrigdonegan
Johi le Wyte Poer	Pħo de Barry de Kalbarri

Robto de Barry	Willo Strangbowe
Riço le Waleys	Edm̃ de Penbrok
Jacobo de Ketyng	Hugoñ Byset
Riço de Valle	Petro de Maundevitt
Walfo de Valle	Roço de Sço Bosco
Willo de Sço Leodegař	Michi de Kyltenan
Walfo le Bret	Walfo Sarefyn
Willo de Burgo	Hugoni de Balydovonald
Jordaň de Exoň Senioř	Henř of Clogher
Jordaň de Exoň Junioř	Willo Taaff
Simoni de Genvill	Joñi fit Martini de Maundevitt
Riço de Exonia	Ade de Logan
Nigello le Brun	Pño de Lorquei
Joñi de Staunton	Henř le Flemyng
Walfo de Lacy	Joñi Sargyl
Hugoni de Lacy	Thome le Taillur
Joñi Tuyt	Matño fit Hugoñ de Hanewode
Riço fit Joñis	Joñi fit Alani de Logan
Walfo de Cusak	Miloni de Eldoune
Joñi de Bonevyl	Joñi Talbot
Galfro le Bret	Riço le Savage
Regiň Russel	Willo Calf
Pño Xpofre	Alano de Insula
Miloni de Cury	Willo Byset
Nicño fit Mauř	Georgio de Rupe
Simoni Feypo	Walfo de Rupe
Riço Taaf	Joñi fil Th Lengleys
Thome de Maundevitt	David de Sço Albino
Hugoni Byset	Riço Tuyt
Joñi Byset	Willo de Londoň
Alano fit Warini	Baldewyno le Flemyg
Pño de Maundevill	Riço
Walfo de Sey	Miloni de Swordes
Willo le Fyz Waryn	Hušto Byset
Thome le Fyz Wař	Hušto le Waleys
Pagano de Eledoune	Joñi de
Robto P'sone	Joñi
Nicño le Blund	

Dñs R. mandavit dilco & fid suo Riço de Burgo Coñ Ultoñ bre sūm in hec verba.

Edwardus &c. dilco Riço de Burgo Coñ Ultoñ salēm Quia sup quibusdam arduis negotiis nos & statū ire nre Hibñ ctingentibz vobiscum hēre volum⁹ tctatū spālem vob mandam⁹ qd sitis in p'pa psona v'ra apd Kylkenñ die Lune in octabis Puī Bē Maī ad tctand & pliamēd cū Justiç nro Hibñ & aliis de Conñ nro & cū cetis pceribz & magnatibz ire nre sup eisdem negotiis Et hoc nullaten⁹ omittatis in fide qua nob tenemini. Et heatis ibi hoc bre. T. J. Wogan &c. apud Dublin viij^a die Jañ anno rñ nō fcio.

Consimilia bria mandata fuerunt divs p'lati & aliis pceribz & hōibz in tra Hib.

Et Dñs Rex mandavit omibz Viç suis de tra p'dca qd venire fac ibidem ad diem p'dcam de quolīt Coñ duos Milites Et de qualibet Civitate v' Burgo duos Cives v' duos Burgenses hēntes plenam p'tatem ex pte Coñ p'dcoz Coñ Civitatum et Burgoz ad pliamēd tctand & ordinand cū p'dco Justiç & Conñ nro & cū cetis pceribz ire p'dce sup eisdem negotiis & ad faciend & consenciend ordinacōibz ibidem p ipos ordinand.

Ad quem diem p'dcus Justiç & alii de Conñ dñi R. ibidem existentes congregatis corā ipis omibz ibidē suñmonitis ostenderunt ex parte Dñi R. quandam peticōem sub forma que sequitur tenore verboz [The Statutes of this Parliament are subjoined on the Roll.]

[Peers mentioned in Statute 2 E. 2. Red Bk. Chief Rememb. Off. Dub.]

Authoritate p'dcaz ordinacōnū pvisionū & concessionū veniabit patr M. Archieps Cassel W. Osoř Epus W. Imet Epus R. Lismoř Epus M. Leighliñ Epus confirmatus &c. xij^o die Febr in majori Ecclia Sçi Kenni de Kilkenny in p'sencia Dnoz Riçi Coñ Ultoñ Johñ Wogan Justiç Hib Riçi de Clare Johñ fil Thome Johñ de Barry Mauř de Rupe & alioz p'timoz Magnatū de Hibñ & de eozdē assensu pnūciarūt quandam sentenciam in hæc verba, &c.

[Chief Rememb. Roll, Dub. 18 E. 2.]

At Easter in the 17th of Edw. II. a Parliament was held at Dublin, and in one of the statutes then passed there is embodied a declaration which had been made by the Peers who were present, and transmitted to the King into England; the statute therefore affords proofs of sittings for the Peers whose seals were affixed to that declaration. Their names appear to be, Richard de Bourke Earl of Ulster, Thomas le Fitz John Earl of Kildare, John de Bermingham Earl of Louth, Maurice le Fitz Thomas, John de Barry, John le Poer de Dunoye, Arnald le Poer, Thomas le Botiller, Richard de Tuyt, Nicholas de Verdun, Morice de Rochefort, &c. as will be found on reference to the above Roll.

[Chief Rememb. Roll, Dub. 33 E. 3.]

R. venſabili in Xpo pri J. eadem gra Archiepo Duſ
Quia ſup arduis negotiis nos intime conſentibz die Lune
px ante feſtu Sci Ambrosii px futuſ apud Dublin vobiſcu
ceſiſq, platiſ Magnatibz & pſibz tre nre Hiſ Deo duce Con-
ſiliu here pponim⁹ & tractatu voſ in fide & dilecoe quibz
noſ tenemini firmit^r injungendo mandam⁹ quaten⁹ dſis die &
loco pſonaliter inſiſtiſ cu Juſtiſ nro Hibn & aliis de Conſilio
nro ceſiſq, platiſ magnatibz & pſibz pdſis ſup pmiſſiſ trac-
tatuſ vſmq, conſiliu impenſuſ Et hoc ſicut Nos & honorem
nrm diligitiſ & voſ erga noſ indempnes ſvare voluſitiſ nulla-
tenus omittatiſ Et ſciatiſ ibi tunc hoc bre. T. Jacobo le
Botiller Comite Dermond Juſtiſ &c. apud Dublin xvij^o die
Marci. p ipm Juſt & Conſ

Conſimilia bria dirigunt^r ſubſcriptiſ videſt

Epo Mid—Epo Kildaſ	} De eſſendo apud Dublin die pdco
Epo Fernen	

Abbi doin⁹ Be Marie jux^t Duſ

Abbi Sce Thome Martiſ jux^t Duſ

Mauſ Comiti Kildaſ

Johi Huſee Militi

Johi de Cuſak Miliſ

Johi de Carrew Miliſ

} De eſſendo apd Duſ die pdco

Aepo Cassel	}	De essendo apud Wafford die Lune p̄x post fest̄ S̄ci Am- broš p̄x futur̄
Epo Lysmore		
Epo Laoneñ—Epo Lymer̄		
Epo Imelaceñ—Epo Cloneñ		

Geñ fit Maur̄ fitz Thoñs nup	}	De essendo apud Wafford die p̄dco.
Comitis Dessemon̄		
David de Rupe Militi		
Johi de Rocheford Militi		
Riço de Burgo Militi		
Johi fitz Nichol de Kerry		
Riço Mlys Oweyn de Lymer̄ sub pena ducentā libraꝝ		

R. Majori & Ballivis Civitať sue Duš. S. Quia sup arduis &c̄ ut sup^a usq̄ ibi except̄ qđ cetis ponet^r antē p̄ceribz et tunc sic vobis in fide & ligeancia quibz &c. ut sup^a mandam⁹ qđ duos de discretioribz Civibz d̄ce Civitatis qui plenam potestatem h̄eant p̄ cōitate d̄ce Civitatis venire fač ad d̄cos diem & loč ad tractand̄ ibidem sup̄ p̄missis cū Justič n̄r Hibñ & aliis de Consilio n̄ro unacū p̄latis Magnatibz & p̄cibz p̄d̄cis ad consenciend̄ hiis que tunc ibidem p̄ n̄ris honore & cōndo favente Dño contingit ordinari Et h̄eatis ibi tunc nōia Ciŕm p̄d̄coꝝ et hoc b̄re. T. ut sup^a.

Consimilia b̄ria dirigunt^r

Majori Señ & Ballivis ville de Drogheda ex ut^aq̄ pte aque qđ veniř fač duos de discretioribz Civibz &c. qđ sint ap̄d Dublin die p̄dco

Majori & Ballivis civitať Cork qđ comp̄ fač duos &c. qđ sint ap̄d Wafford die Lune p̄x post fest̄ S̄ci Ambroš

Majori & Ballivis civitať P'posito & Ballis ville de Lymer̄ Clonmell

Majori & Ballivis civitať P'posito & Ballis ville de Wafford Weyesford

Sup̄iori & Ballis ville Kilkeñ Vič Kildař de venire fač

Sup̄iori & Ballis ville de David Nash & Rič Pen-
Rosse keston vel alios p

Et Señ Ličtať Kilkeñ qđ venire fač David de Rocheford Militē & Thoñ Shulhm vel alios p̄ds de essendo ad d̄cm diem Lune p̄x post fest̄ S̄ci Ambroš ap̄d Wafford.

Consimilia bñia dirigunt'

Vič Duš—Vič Cath	$\left\{ \begin{array}{l} \text{Non ven' s't excu-} \\ \text{sat' p' Just' p'pter} \\ \text{Guerram} \end{array} \right\}$	$\left\{ \begin{array}{l} \text{Qđ veniř fač duos de} \\ \text{discretioribz Mili-} \\ \text{tibz Coñ vel Mili-} \\ \text{tibz p die Lune pñ} \\ \text{ante festũ Sçi Am-} \\ \text{broš apđ Dublin.} \end{array} \right\}$
Vič Croč Miđ—Vič Croč Kilkenñ		
Vič Loueth—Señ Lištatis Kilkeñ		
Vič Kildař—Vič Croč Weys		
Señ Lištař Mid—Señ Lištař Weys	$\left\{ \begin{array}{l} \text{Qđ venire fač duos \&c. qđ} \\ \text{sint apđ Watřford die pđčo} \\ \text{\&c.} \end{array} \right\}$	
Vič Croč Typař—Señ Lištatař		
Typař		
Vič Watřford—Vič Lymer—		
Vič Cork		

R. Majori & Señ ville de Drogheda ac Ade Gernon & Henř Heyward Burgensibz dčẽ ville electis ad veniendũ ad ultimũ Consiliũ nřm apđ Dublin tentũ salřm Quia vos pfati Adam & Henř nondum fuistis in dčõ Consilio nec postea qđ ex pte nřa voš fuit injunctum voš mandam^o qđ vos quatuor unacũ aliis quatuor de pbioribz & discretioribz Burgensibz dčẽ ville sitis in ppria psona coram venřabili pře Johe Archiepo Dublin ac Theš nřo Hibũ & aliis de Cons nřo apđ Dublin die Lune in quindena Pasche pñ futuř ad faciendũ & recipiendũ quod voš ex pte nřa tunc injunget' Et hoc sub pena quadraginta librař nullatenus omittatis Et heatis ibi tunc hoc bře sub eisdẽ testio & dař.

p ipm Just.

[Chief Rememb. Roll, Dub. 33 E. 3.]

R. venřabili in Xpo při I. eadem gřa Archiepo Dublin salřm Propř quedam urgentissima neg[otia] pacem ĩre nře Hibũ & maxime pciũ Lageñ concñencia voš in fide & dileccõẽ quibz noš tenemini firmiř injungendo mandam^o qđ psonaliř sitis cũ Justič nřo Hibũ & aliis de Consilio nřo apđ Dublin die Lune pñ post festũ Sçi Petri ad Vincula pñ futuř sup negotiis illis una cũ aliis de fidelibz nřis tractatuř vřmq; consiliũ impensuř Et hoc sicut de voš confidim^o nullatenus omittatis Et heatis ibi tunc hoc bře T. pfato Jacobo Justič &c. apud Dublin xxviiij^o die Julij.

Consimilia bria dirigunt^r subscript^r videt^r

Epo Mideñ	Abbat ⁱ Bē Marie juxta Duḡ
Epo Dareñ	Abbati Sēe Thome Martir juḡ Duḡ
Locum Tenenti Prior	Prior de Conall
Hospit ^r S. Joḡ Jerlm	
Jacobus de Watenhull Can ^c Liḡtaḡ de Trym	
Wilfo Loundr ^s	
Maur ^r Comiti de Kildaḡ	} in fide & homagio
Joḡi Cusak Militi	
Joḡi Husee Militi	
Joḡi Wogan	
Robto de Preston	} in fide & ligeancia
Oliver fitz Eustace	

R. Major^r & Ballivis Civitaḡ sue Dublin salḡm Prop^r
 quedam &c. ut sup^a usqⁱ ibi mandam^o & tunc sic
 qđ vos unacū aliis quatuor de pbioribz Civibz dēe Civitaḡ
 qui plenā potestatem p cōitate dēe Civitaḡ hēant ad consen-
 ciend^r hiis que p expedicōe negociorū illoḡ tractuḡ contigint
 psonaliḡ sitis cū Justic^r nro Hib apd Dublin die Lune pḡ
 post fest^r Sēi Petri ad Vinēla pḡ futuḡ sup negociis illis &c.
 ut sup^a T. ut sup^a.

Consimilia bria dirigunt^r mutaḡ mutand^r videt^r

Majori Señ & Ballivis ville de Drogheda ex utr^aqⁱ pte aque.
 Viḡ Dublin. }
 Viḡ Kildaḡ } Qđ sint apud Dublin die pđco unacū sex
 Viḡ Loueth } de pbioribz Militibz comⁱ & liḡtaḡ
 Señ Liḡtaḡ Mid } pđict.

T. ut sup^a

[Chancery Roll, Dub. 46 E. 3.]

R. ven^oabili in Xpo Archiepo Dublin salḡm
 [Quia quibusdam de causis] salvacōem & defensionē nre
 nre Hibⁱ spaliḡ concōnentibz Magⁿ Consiliū apud
 Civitatem nram Dublin tenend^r die Mⁱcuḡ pḡ post festū
 Cathedre Sēi Petri pḡ futuḡ voḡ in fide & dilec-
 cōe quibz nobⁱ tenemini firmiḡ injungendo mandam^o qđ

... cessante ibidem ad diem illum unacū pcuratū
sufficientē p' Decano & Capīllo ecclie v're Cath' Dublin ac
Clero v're Dioč' psonaliť inľsitis ad tractand' & concordand'
sup' hiis & tranquillitatē fideľiū ligeoꝝ n'roꝝ
Deo duce ibidem contig'it ordinari Et hoc nullatenus omit-
tatis Et heatis ibi tunc hoc b're. T. pfato Locū teñ apud
Dublin xvº die Feb.

Conřilia b'ria mutatis mutand' dĩr psonis subscript' sub ead'
dať videlt.

Archiepo Ard'm	}	p' ipm locū teñ & Consiliū.
Epo Mideñ		
Epo Daren		

... dilco sibi in Xpo Abbi domus Sđi Thome Mar-
tiris juxta Dublin salťm [Quia quibusdam &c.] ut sup' usq'
ibi ad diem illum & tunc sic psonaliť inľsitis ad tractand'
... ut sup'
p' ipm Loc' teñ.

Conřilia b'ria dĩr subscriptis sub eadem data videlt
Abbi domus Bē Marie juxta Dublin
Mauricio fitz Thomas Comiti Kildar'
Fro Wilto Tany priori Hospit' Sđi Johis Jerłm in Hibñ

R. dilco consanguineo & fideľi suo Jacobo le Botiller Comiti
Dormond salťm Quia quibusd' &c. ut sup' usq' ibi in fide &
tunc sic & homagio quibz &c. ut sup' usq' ibi contig'it ordinari
& tunc sic scientes p' eto qđ ppť discordias in ptibz Lagenie
eminentes absenciam vřm ad diem pdčm nullo modo volum'
nec intendim' aliqualiť excusare Et hoc nullať omittatis
ne in vři defectu v're n're pdče amissio cedere valeat quo-
vismodo Et &c. ut sup'. T. ut sup'.
p' ipm Locū tenentē & Consiliū.

R. Vič Dublin salťm Quia quibusd' &c. ut sup' usq' ibi
ordinand' & tunc sic tibi p'cipim' firmiť injungentes & sub
piculo quod incumbit qđ de cōi assensu & voluntate ejusdem
Comñ eligi fač duos de melioribz & sufficiencioribz hōibz
ejusdem Comñ qui plenam potestatē p' eadem Civitate h'eant

ad tractand &c. ut sup^a usq³ ibi contig^{it} ordinari & tunc sic et
ul^tius p^{ro}munire fa^{ci}

Thomam Talbot militē	Reginaldū Talbot
Nich ^{ol} i Houth	Jo ^h iem fitz Rery
Ri ^{ch} ard . . . Kilsalghan	Jo ^h iem Talbot de Ma . . .
Jo ^h iem de la Feld	Ri ^{ch} ard
Mich ^{el} em Darcy	Ro ^{ger} um Uriell
Galf ^{red} um Trivers	Jo ^h iem . . . eltyng
Jo ^h iem Cruys	Ro ^{bert} um Mayll &
Laurenciū Wodlok	Ric ^{ard} ū White de Killestre

& q^{ui}nt eo^{rum} in fide & ligeancia quib^{us} nob^{is} tenē^t quacūq^{ue}
excusacōe cessante & sub pena c. mar^{is} nob^{is} solvendⁱ ibidem
ad diem illū p^{er}sonali^{ter} ins^{er}it ex causa sup^ad^{ic}ta et ul^tius ad loc^{um}
. eundem Com^{ite} tam infra lib^{er}tates q^{ua}m ext^{ra} p^{er}sonali^{ter}
publice p^{ro}clamari fa^{ci} q^{uo}d om^{ne}s illi ac qu^{ic}uq^{ue} alii Ligei n^{ost}ri
ibidem venire volentes ad negocia sua ex quacūq^{ue} causa
. apud d^{ic}tam Civitatem n^{ost}ram salvo & secure absq^{ue}
impedimento seu arestacōe aliquib^{us} et eadem p^{ro}sequi ac
exinde ad p^{ro}pria recedere debeant in hac p^{ar}te Et tu in
p^{ro}pria p^{er}sona h^{ab}as ibi no^{stra} d^{ic}to^{rum} el^{ec}to^{rum} & hoc b^{re}ve T. &c. ut
sup^a.

Con^{se}ilia b^{er}ia dir^{ect} Vi^{ci} ac Seⁿⁱor^{um} Lib^{er}tatū in Com^{ite} subscriptis
ad p^{ro}munien^d subscriptos sub eadem data vidē^t

Vi^{ci} Cro^{is} Mid^{le} ac Seⁿⁱor^{um} Lib^{er}tatis ibidem ad p^{ro}munien^d sub-
scriptos vidē^t

Will ^{elm} de Loundres Militē	Thomā Vernoill Militē
Simonē Cusak Militē	Jo ^h iem de Troye Chicū
Wal ^{ter} um Cusak Militē	Jo ^h iem fitz Richer
Nich ^{ol} am Castelmartyn Militem	Ric ^{ard} ū Darditz
Thomā Tuyt Militē	Will ^{elm} Goldyng
Thomā Duffe de Rahod	Meilerū Petit
Jo ^h iem Bellew juniorē	Simōn Cruys
Ri ^{ch} ard Stokes	Henric ^{us} Betagh de Moy-
Jo ^h iem fitz Matheu	nalty
Nich ^{ol} am Wythyngton	Georg ^{ius} Telyng
Jo ^h an fitz John Baronē de Delvyn	Johan ^{nes} Drake
Thomā Bruyn Militē	Ri ^{ch} ard Rede
Jo ^h iem Berneval Militem	Jo ^h iem Petyt

Joñem de la Mare	Laurenciũ Petyt
Ričm Rendhull	Ričm Dexcestre . . .
Joñem Staunton	Stepñ Flemyn . . .
Joñem Feypo	Joñem Corbally
Joñem Cusak geñ	Joñem Roydpak
Walřũ Dexcestre	

Vič Loueth ad ģmuniend subscriptĩ videt

Ričm Taaf de Balybragan	Joñem Taaf
Joñem Clynton	Joñem Stanley
Joñem Haddesore	Joñem Napton
Robřm Gernon de Rathbrist	Joñem Kynton
Galfřm White	Rořm Babe
Matheum Tanner	Thomam Clynton
Walřum Dovedale	Jacobũ de Audeleye

Joñem Rushe

Vič Kildař ad ģmuniend subscriptĩ videt

Rořm Calf Militem	Joñem Creef
Oliverũ fitz Eustace	Henř Kent
Wiřm Wellesley	Bartřm Eteley
Joñem fitz Eustace	Abřem de Balkynglasse
Joñem Rocheford	Henř de la Bere

Majori Senescallo & Ballivis Ville de Droghda ad ģmuniend subscriptĩ videt

Ričm Mole	Wiřm Symcok
Wiřm Roch	Joñem Asshewell
Ničřm fitz Hugh	Thomam Asshe

Majori & Ballivis Civitatis Dublin ad ģmuniend viginti & quatuor Juratos ejusd Civitař . . . ģmřt &c. ut sup^a T. ut sup^a. Ac eciam duos de melioribz & sufficiencioribz Civibz &c. T.

[Chancery Roll, Dub. 48 E. 3.]

Venřabili in Xřo řri M. eadem ģřa Archieřo Ardm . . .
 Quia diřsa fideli řplo řra řřa Hibř in diřsis
 ptibz ejusdem řre quod absit nisi in řmissis remediũ
 apponat' nos mento tocius Consiliĩ řri in řra řdřa
 pinde & quibusdam aliis urgentissi statũ ejusdem

tre ūre spālī conēnentibz quoddam pliamētū nrm apud
 Dublin ubi in octabis S̄ci Hillař p̄x futuř tenend
 de eoř cōi ass ordinand Et ideo voř in fide & dilec-
 cōne quibz noř tenemini firmī injungendo mandam^o quod
 sup p̄missis cū Consilio vos īpī in
 ppria psona vřa et non p pcuratorem oīni exēusacoe & dītone
 postpositis ibidem ad diem illum inīsitis hēntes tunc ibidem
 vobiscū sufficientē potestatē de Clero vřo p̄dco ad consentiend
 tam p voř qm p dco clero vřo necnon ad tractand & concor-
 dand unacū aliis prelatis magnatibz & p̄cibz ibidem ex causis
 p̄dcis comparentibz sup hiis que voř ex pte ūra exponent
 tunc ibidem Et hoc nullatenus omittatis Et hēatis ibi tunc
 hoc bře Scientes p cto qđ ppl necess que
 jam urget non intendim^o nec volum^o psonam ad diem
 illum quoquomodo excusare eo qđ negocia tunc tractand
 absq p̄sencia vřa finem debitū sortiři polunt caventes ne nego-
 cia p̄dca p vřam absenciam ul̄tius retardent^r vel quo-
 vis modo T. p̄fato Gub̄natore apud Le Naas xx^o die Novemb̄
 p īpm Gub̄natorem & Conř

Conř bria dirigunt^r Archiep̄is & Ep̄is subscriptis de v̄bo in
 v̄bū sub eadem data videlicet

Archiep̄o Dublin	Ep̄o Leghlineñ
Archiep̄o Cassalen	Ep̄o Ferneñ
Archiep̄o Tuamen	Ep̄o Ossorieñ
Ep̄o Kildař	Ep̄o Lesmoreñ & Walford
Ep̄o Cork	Ep̄o Laoneñ
Ep̄o Lymeř	Ep̄o Duneñ
Ep̄o Imlaceñ	Vicari Gen̄ali Ep̄i Mid
Ep̄o Ardferten	Vicar Gen̄ali Ep̄i Cloneñ
	Custodibz sp̄ualiřis Ep̄atus
	Coñeñ sede vacante.

R. dilco sibi in Xpo Abbi S̄ci Thome Martiris juxta
 Dublin salm Quia &c. ut sup^a usq ibi ordinand et tunc sic
 Et ideo voř in fide & ligeancia quibz noř tenemini firmī in-
 jungendo mandam^o qđ vos īpī in ppria psoñ vestra & non p
 pcuratorem oīni excusacōe & dītone postpōitis ibidem ad diem
 illum inīsitis ad consentiend tractand & concordand una &c.
 ut sup^a T. &c. ut sup^a.

Consimilia bñia dirigunt' Abbatibz Prioribz subscriptis de
 Vbo in Vbū sub eadem data videlicet

Abbi de Mellifonte	Abbi de Albo Tractu
Abbi dom ^o bē Marie juxta Dublin.	Abbi de Magio
Abbi de Balkynglas	Priori Sçe Trinitatis Dublin
Abbi de Jeriponte	Priori Sçi Petri jux ^a Trym
Abbi de Tynñe	Priori de Conall
Abbi de Dowysky	Priori de Kenles in Osoř
Abbi de Dunbrothy	Priori Oīm Sčoꝝ juxta Dublin

R. dilčo & fideli consanguineo suo Jacobo le Botiller Comiti Dormond salēm Quia &c. ut sup^a usq; ibi ordinand et tunc sic Et ideo voñ in fide & homagio quibz noñ tenēi &c. ut sup^a usq; ibi in ppria psona vñra et tunc sic oīni excusacōe & dilōe postpōitīs ibidem &c. ut sup^a T. ut sup^a.

Consimilia bñia dīr Comitibz Magnatibz & pēibz subscrip-
 tis de Vbo in Vbū sub eadem data videlicet

Mauricio Fitz Thomas Comiti	Ničio Castlemartyn Militi
Kildař	Thome Tuyt Militi
Geraldo Fitz Morice Comiti	Ničio Castlemartyn Militi
Dessemond	Thome Tuyt Militi
Thome Fitz John Militi	Thome Brune Militi
Patricio de la Freigne Militi	Thome Vernaill Militi
Walčo Cusak Militi	Ročo Gernon
Thome Talbot Militi	Ričo Taaf
Hugoni Byset Militi	Joñi Taaf
Henř Savage Militi	Ričo Plunket
Rošto de la Freigne Militi	Joñi Husee baroni de Galtrym
Ričo de Burgo Militi	Joñi Bedelewe
Joñi Fitz Nichol Militi	Mauř Fitz Richard
Thome Clifford Militi	Thome oge Botiller
Rošto Swetman Militi	Ničio Poer
Walčo Lenfaunt Militi	Pħo fit Wiffi Barry
David de Barry Militi	Galfřo de la Laund
Walčo Lenfaunt	Matħo Fitz Henry
Ničio Houethe	Ričo Wyttey
Ričo Verdoñ	Wiffi Wellesley
Wiffi de London Militi	Olivero Fitz Eustace
Rošto Calf Militi	Galfřo Vale.
Simoni Cusak Militi	

Consimilia bria dirigunt^r psonis subscriptis qui sunt de Consilio Regis sub forma & data videlicet

Priori Hospitalis &c. Cancellar^r Regis Hibⁿ

Magro Johi de Colton The^s

Johi Keppok

Robto de Prestoⁿ Militi

Ri^o Plunket

Robto de Holywood Militi

Johi Tyrrell

Willo Karlell Clico

Hen^r Michell

Johi de Karlell Clico

R. Vi^c Dublin sal^m Quia &c. ut sup^a usqⁱ ibi ordinand^r et tunc sic Et ideo tibi p^rcipim⁹ firmi^r injungentes qd^r de cōi assensu cōitatis dēi Cōm duos de p^rbiorib^z & leg^r ad laborand^r potenciorib^z qui plenam potestatem p^r se & possideant quos venire fa^c ad diem illū tunc ibidem ad consenciend^r tractand^r & concordand^r aliis ibidem ex causis p^rdcis comparentib^z sup^r hiis que eis ex pte n^ra exponent^r tunc ibidem tu ipe in p^rpria psona tua ad diem illū sis ibidem ex causis p^rdcis Et hoc nullatenus omittatis Et h^ras ibi tunc hoc b^re T. &c. ut sup^a.

Consimilia bria dir^r. vicecomitib^z & senescallis lib^ratū subscriptis de v^rbo in v^rbū sub eadem forma & data vid^r.

Vi^c Kilda^r

Senescallo lib^rtatis & Vi^c Cro^c Ulton

Vi^c Cathⁱ

Senescallo lib^rtatis & Vi^c Cro^c Midⁱ

Vi^c Loueth

Senescallo lib^rtatis & Vi^c Cro^c Wey^s

Vi^c Watford

Senescallo lib^rtatis & Vi^c Cro^c Typa^r

Vi^c Cork

Senescallo lib^rtatis & Vi^c Cro^c Ke^r

Vi^c Lymer^r

R. Majori & Ballivis Civitatis sue Dublin sal^m Quia &c. ut sup^a. usqⁱ ibi ordinand^r et tunc sic Et ideo vo^s mandam⁹ firmi^r injungentes qd^r de cōi assensu cōitatis Civitatis p^rdce eligi fa^c de meliorib^z & p^rbiorib^z & leg^r Civib^z ejusdem Civitatis & ad laborand^r potenciorib^z qui plenam potestatem p^r se & dēa cōitate possideant quos venire fa^c &c. ut sup^a usqⁱ ibi Et Et tunc sic Vos ipe p^rfate major in p^rpria psona v^ra &c. ut sup^a usqⁱ ibi Et tunc sic h^rentes ibi noīa p^rdcō^r Civiū & hoc b^re T. &c. ut sup^a.

Consimilia bñia dirig' Majoribz Senescallis supioribz ppõit-
tis & Bañis subscriptis sub eisdem forma & dať

Majori & ballivis civitatis sue Watford

Majori & ballivis civitatis sue Cork

Majori & ballivis civitatis sue Lymeř

Majori Señ & ballivis ville sue de Drogheda ex ut^aq^e
pte aque

Supiori & ballivis ville de Yoghill

Supiori & bañis ville de Kynsale

Supiori & bañis ville de Rosse

Supiori ppõito & ballivis vill de Weys

Supiori ppõito vill de Kilkenñ.

[Chancery Roll, Dub. 1. R. 2.]

R. venřabili in Xpō patri R. eadem gřa Archiepō Dubliñ
salťm Quia quibusdam arduis & urgentissimis de causis nos
& statum řre nře Hibñ spaliť concñenť pliamētũ nřm apud
Tristeldermot die Lune pñ post festum Cinerũ pñ futuř
cũ continuacōe & prorogacōe dieř sequenciũ tenend de avi-
samento Consilii nři ejusdem řre duxim⁹ ordinand Voř in
fide & dileccōe quibz noř tenēi firmiť injungendo mandam⁹
qd vos ipi in ppria psona řra & non p procuratorem aliquem
omī excusacōe postposita unacum pcuratoribz sufficientĩ pro
decano & capĩtlo ecclie řre Dubliñ & aliis de clero řre dioč
potestatem sufficientem pro se ac dčis decano capitulo & clero
optinentiř de assensu eorũdem constituend ibidem ad diem
illũ inťsi . . . ad tractand concordand & consentiend sup
articulis ibidem tunc ex pte nřa exponendis & declarand
Et řeatĩs ibi noĩa dčorũ procuratorũ & hoc bře. T. pfato
Justič apud Tristeldermot xxij^o die Januair

Consimilia bñia diriguntur Archiepĩs Epĩs & aliis psonis
subscriptĩ sub eadem dať videtť.

Archiepō Ardñ

Archiepō Casselleñ vel ejus Vicař genřat

Archiepō Tuameñ

Epō Mideñ

Epō Leghlineñ

Epō Dareñ

Epō Ossorieñ

Epo Ferneñ	Epo Duneñ
Epo Lysmoreñ & Watford	Epo Aladeñ
Epo Cork	Epo Duaceñ
Epo Lymeñ	Epo Clonferteñ
Epo Ardferteñ	Custod spulitañ Epatus Rosseñ
Epo Laoneñ	Epo Conareñ
Epo Imelaceñ	Epo Cloneñ
Epo Elphineñ	

Consimilia bria dirigunt^r Abbibz et Prioribz subscriptis
mutatis mutandis sub eadem dañ videñt

Priori hospitalis Sçi Johis Jerlm in Hiñnia

Abbi Sçi Thome Martiris jux^a Dublin

Abbi domus bē Marie juxta Dublin

Abbi de Mellifonte Abbi de Albo t^actu

Abbi de Balkynglasse Abbi de Magio

Abbi de Dunbrothy Priori Scte Trinitatis Dublin

Abbi de Tynñe Priori de Conall

R. dilco & fideli consanguineo suo Jacobo le Botiller
Comiti Ermoñ salm Quia quibusdam &c. ut sup^a usqⁱ ibi
Et ideo voñ et tunc sic in fide & ligeancia quibz noñ tenēi &c.
ut sⁱ usqⁱ ibi in ppria psona v^{ra} et tunc sic omñ excusacōe
postposita ibidem ad diem illū &c. ut sup^a usqⁱ ibi declarand^t
et tunc sic Et hēatis ibi tunc hoc b^{re} &c. ut sⁱ.

Conñ bria dirigunt^r psonis subscript^t mutatis mutand^t sub
eadem dañ videñt.

Mauricio Fitz Thomas Comiti	Simoni de Cusak Militi
Kyldař	Wiffo de Loundres Militi
Geraldo Fitz Morice Comiti	Walfo de Cusak Militi
Dessemoñ	Hugoni Byset Militi
David de Barry Militi	Henř Savage Militi
Riço de Burgo Militi	Thome Tuyt Militi
Thome Fitz John Militi	Thome Vñayll Militi
Patricio de la Freigne Militi	Roñto Calf Militi
Roñto de la Freigne Militi	Thome Clyfford Militi

Consimilia bria dirigunt^r psonis subscript^t de Consilio dñi
Regis existentibz mutatis mutand^t sub eadem dañ videñt.

Roŝto de Prestoune Militi

Riço Plunket

Joñi Keppok

Johi Tyrell

Stephno Braye

Conũ bñia dir̃ p̃sonis subscriptis mutatis mutandis sub
eadem videlicet.

Joñi Husee Baroni de Galtrym Thome de Botiller

Mauricio Fitz Richard

Walter Bernyngham de Athnery

Riço og de Burgo

Nicño le Poer

Joñi Roche de Fermoy

Phõ fit Wilti de Barry

[illegible]

R. Vič Dubliň salťm Quia quibusdam arduis & urgentis-
simis &c. usq̃ ibi ordinand̃ et tunc sic tibi ꝑcipim⁹ firmi⁹ in-
jungentes qđ de cōi assensu cōitatis dēi Coñ eligi fač duos de
probiolibz & legalioribz Militibz ejusdem Co et
ad laborand̃ potencioribz qui plenam potestatem ꝑ se & dēa
cōitate possideant quos venire fač ad diem & locum ꝑdčos
ad tractand̃ &c. ut sup^a usq̃ ibi declarand̃ et tunc sic Et
ñeas ibi noĩa dčoz militū & hoc bře. T. ut supra.

Consimilia bñia dirigunt^r Vič subscriptĩ mutaĩ mutandũ sub
eadem daĩ videt^r

Vič Louetħ

Vič Cork'

Vič Kyldař

Vič Lymeř

Viç Cathirlagh

Vič Clare

Vič Watford

Vič Drogh

Vič Weyš

Señ liḡtaĩ Miḡ et Vič Croč ibidem

Señ lištatis Ultoñ & Vič Croč ibidem

Señ lĩbtatis Kylkenñ & Vič Croč iřm

Señ lištatis Typař & Vič Croč iřm

Señ libtatis Keř & Vič Croč ibidem

R. Majori & Ballivis Civitatis sue Dublin salŕm. Quia quibusdam arduis &c. usq; ibi ordinand et tunc sic voŕ mandam⁹ firmit^r injungentes qđ de cōi assensu cōitatis Civitatis

pdce eligi fač duos de probioribz & legalioribz Civibz
ejusdem Civitatis &c. ut sup^a usq₃ ibi noia pdcoz et tunc
sic Et heatis ibi noia dcoz civiū & hoc bre. T. ut sup^a

Consimilia bria dirigunt^r subscriptis mutatis mutand sub
eadem dat^r videlicet.

Majori Señ & ballivis ville de Drogheda ex ut^aq₃ pte aque

Majori & ballivis civitatis Watford

Majori & ballivis civitatis Cork

Majori & ballivis civitatis Lymer

Supiori & pposito ville de Kilkenñ

Supiori & pposito ville de Rosse

Supiori & pposito ville de Weys

Supiori & pposito ville de Yoghill

Preposito & ballivis ville de Galvy

Preposito & ballivis ville de Athnery.

[Chancery Roll, Dub. 4 R. 2.]

R. venabili in Xpo patri R. eadem gra Archiepo Dubliñ
salim Quia quibusdam urgentissimis de causis nos & statum
tre nre Hibñ spalit conentibz pliamentu nrm apud Dubliñ
die Sabbi in crastino Animaꝝ pñ futuř tenend de avisamento
locum nrm teñtis & Consilii nri in tra nra Hibñ duxim⁹
ordinand Voř in fide & dileccoe quibz nob tenei firmi in-
jungendo mandam⁹ qđ vos ipi in ppria psona vřa una cum
pcuratoribz sufficientibz p decano & capitulo ecclie vře Ca-
thedral Dubliñ ac aliis de clero vře dioč potestatem suffici-
entem pro se ac dcis decano capitulo & clero optinent de
assensu eozdem constituend ibidem ad diem illum intsis ad
tractand concordand & consenciend ac consiliu vřm impendend
sup hiis que in eodem pliamento ex pte nra pponent tunc
ibidem Et heatis ibi noia dcoz pcuratoz & hoc bre. T.
pfato locum tenente apud Trym xj^o die Septembr.

Consimilia bria dirigunt^r Archiepis Eps & aliis psonis
subscripi sub eadem dat^r videt.

Archiepo Cassell vel ejus Vicař genal

Epo Dareñ

Archiepo Tuameñ

Epo Leghlinē

Custod Spualitatis Archiepatus Ardñ

Epo Ossorieñ

Custod Spualitatis Epatus Mideñ

Epo Fernē

Epo Lysmoř & Watford	Epo Aladeñ
Epo Cork	Epo Duaceñ
Epo Lymeř	Epo Clonferteñ
Epo Cloneñ	Epo Rosseñ
Epo Cloghereñ	Epo Conoreñ
Epo Ardferteñ	Epo Cluanenñ
Epo Laoneñ	Epo Rapoteñ
Epo Imelaceñ	Epo Breffniñ
Epo Elphineñ	Epo Dereñ
Epo Duneñ	

Consimilia bñia dirigunt' Abbbibz & Prioribz subscripti mutať mutand sub eadem dať videťt.

Priori hospitalis Sđi Joñis Jerłm in Hibñ
 Abbi domus Sđi Thome Martiris juť Dublin
 Abbi domus bē Marie juť Dublin
 Abbi de Mellifonte
 Abbi de Balkynglasse
 Abbi de Dunibrothy
 Abbi de Albo tractu
 Abbi de Magio
 Priori de Conall

Rex dilco consanguineo & fideli suo Jacobo le Botiller Comiti Ermoñ salťm Quia quibusdam urgentissis de causis &c. ut sup^a usq ibi ordinand et tunc sic voť in fide & homagio quibz noť tenēi &c. ut sup^a usq ibi in ppria psona vñra et tunc sic ibidem ad diem illū inřsitis &c. ut sup^a usq ibi ibidem et tunc sic Et heatis ibi hoc brē. T. pfato locum tenente ut sup^a.

Conš bñia dirigunt' psonis subscripti mutať mutand sub eadem dať videťt.

Geraldo Fitz Morice Comiti Dessemoñ	Hugoni Byset Militi
Mauř Fitz Thomas Comiti Kyldař	Henř Savage Militi
Willo de Loundres Militi	Thome Tuyt Militi
Thome Fitz John Militi	Thome Vñayll Militi
Patricio de la Freigne Militi	Edmundo Husee
Robto de la Freigne Militi	David de Barry Militi
Simoni Cusak Militi	Ričo de Burgo Militi
Walco de Cusak Militi	

Consimilia bñia dirigunt^r psonis subscriptĩ de Consilio dñi
Reġ existentibz mutaĩ mutand sub eadĩ daĩ

Robto de Prestoñ Militi

Riċo Plunket

Johi Keppok

Johi Tyrell

Stepho Braye

Conš bñia dirigunt^r psonis subscriptĩ mutaĩ mutand sub
eadem daĩ videlt

Mauř Fitz Richard

Pño fil Wiffi de Barry

Johi Roche de Fermoy

Nichio le Poer

Walfo Bermyngham de Athnery

R. Viċ Dublin salĩm Quia quibusdam &c. ut sup^a usq;
ibi ordinand et tunc sic tibi p̄cipim^o firmit^r injungenĩ qđ de
cōi assensu cōitaĩ Coĩ tui eligi faċ duos de p̄bioribz et leġ
Militibz ejusdem Coĩ & ad laborand potentibz plenā po-
testām p se & dċa cōitate optinenđ quos venire faċ ad diem
& locum p̄dċos ad tractand &c. ut sup^a usq; ibi iĩm et tunc
sic Et ĥeas ibi noĩa dċoꝝ duoꝝ militũ & hoc bñe. T. ut sup^a.

Conš bñia dirigunt^r Viċ subscriptĩ mutaĩ mutand sub eadĩ
daĩ videlt

Viċ Kyldař

Viċ Cork

Viċ Loueth

Señ liġtaĩ Kilkenñ & Viċ Croċ iĩm

Viċ Mid

Señ liġtatis Mid

Viċ Cathirlagh

Señ liġtatis Ultoñ & Viċ Croċ iĩm

Viċ Weyš

Señ liġtatis Typař & Viċ Croċ iĩm

Viċ Watford

Señ liġtatis Keř & Viċ Croċ iĩm

Viċ Lymeř

R. Majori & Ballivis Cívitatís sue Dublin salĩm Quia
quibusdam &c. ut sup^a usq; ibi ordinand & tunc sic voř
mandam^o firmit^r injungentes qđ de cōi assensu cōitatis Civi-
tatis p̄dċe eligi faċ duos de p̄bioribz & leġ Civibz ejusdem
Civitaĩ & ad laborand potentibz plenam potestatem p se &
dċa cōitate optinenĩ quos venire faċ &c. ut sup^a usq; ibi iĩm
et tunc sic Et ĥeas ibi noĩa dċoꝝ Civiũ & hoc bñe. T. ut sup^a.

Conš bñia dirigunt^r subscriptĩ mutaĩ mutand sub eadem
daĩ videlt

Majori Señ & ballivis ville de Drogheda ex utraq pte aque
Majori & ballivis civitatis Cork
Majori & ballivis civitatis Watford
Majori & ballivis civitatis Lymeñ
Supiori & pposito ville de Kilkenñ
Supiori & pposito ville de Rosse
Supiori & pposito ville de Weyš
Supiori & pposito ville de Yoghill
P'posito & ballivis ville de Galvy
P'posito & ballivis ville de Athnery.

Writs of summons were also issued for a Parliament to be held in the 5th of Richard the Second, as appears by the Close Roll in Chancery of that year; the Peers then summoned, with the exception of Thomas Tuyt, appear to be the same as those summoned by the above writs of the 4th year, and the document is therefore here omitted.

[Chief Rememb. Roll, Dub. 17 R. 2.]

R. venřabili in Xpō deñ diā Eřo Miđ salřm
Quia quibuscūq certis de causis Nos ac stař sal-
vacōem ac defenč řre řre Hibñ řpaliř cončnentibz quoddam
Magnū Consiliū die Lune př post festū Annun-
cōis B. Marie př futuř tenend řro in řra řra
duxim⁹ ordinand ideo voř in fide & dilecōñ injungenř mand
qd vos ipi in ppria psona psonaliř end
& concordand sup hiis que voř comp
. Et řeatis ibi tunc hoc řre. T. apud Wexford
xij^o die Marč

Consimilia řria dirigunt^r psonis subscriptis mutatis mutan-
dis sub ead

Venřabili Pri Eřo Kyldař

Joři Eřo Leighlineñ

Thome Bathe Locū teñ Theř Hibñ

Geř fitz Morice Comiř Kyldař

Fři Rořto Whyt Priori Hospit &c.

Señ lihtaĩ Mid
 Thome Fitz Eustace
 Petro Capĩ Justĩc ad plita
 Majori civitaĩ Dublin
 Vič Kyldaĩ
 Vič Catherlagh
 David Wogan Miliĩ
 Wilfo Wellesley Miliĩ
 Johi Cruys Miliĩ

R. Vič Dublin saltm Licet Nos nup de avisamento Justič & alioq̃ de Consilio nro in tra nra Hibn quoddā pliamētū apud Tristeldermot die Jovis p̃x post festum Sčĩ Valentini Martiris p̃x futuĩ teneri ordinavimus p̃ eo tamen qđ p̃fatus Justič nr in obsequio nro in ptibz Momon & alibi in obsequio nro dco die Jovis ncio occupari oportebit qđ ad dcm pliamētū usq̃ ad dcm nrm eodm die tenend infvenire non valebit ullo modo idem pliamētum usq̃ ad aliũ diem de avisamento dcoq̃ Justič & Consilii limitand duxim⁹ progand Et ideo tibi p̃cipimus qđ in Com̃ tuo in locis ubi melius expedire videris publice p̃clamari fač qđ uniĩsi & singli Comites Barones Milites Abbes Priores quicunq̃ quibz p̃ difsa bria nra mandavim⁹ de essend in ppriis suis ad dcm pliamētum die & loco p̃dcis ibidem ex hac causa nullaten⁹ veniant quousq̃ a nob̃ inde fuerint in mandatis et eciam Milites p̃ cõitates Com̃ ad comparend in dco pliamento electos de ad . . . suo ad idem pliamētū ad diem & locũ p̃dcos exonari fač ex causa p̃dca. T. p̃faĩ Justič apud Kyllkenĩ vjº die Febr̃

Consimilia bria dirigunt Vič subscripi

Vič Loueth	Señ lihtaĩ Kilkenĩ
Vič Kyldaĩ	Vič Croč iĩm
Vič Cath	Señ lihtaĩ Typaĩ
Vič Watford	. . . . .
Vič Cork	Señ liht̃ Weyĩ
Vič Lymeĩ	Vič Croč iĩm
Señ lihtaĩ Mid	Señ lihtaĩ Kery

Vič Croč iĩm.

[Chief Remembr. Roll, Dub. 18 R. 2.]

R. venřabili in Xpō p̃ri Archiepō Dublin Hibñ Primati salēm Quia quibusdam arduis negociis nos & t̃ram ñram Hibñ sp̃aliť tangentibz Consiliū ñrm apud Kilkenny die Lune in crastino clauš Pasche p̃x̃ futuř teneri ordinavim⁹ Voř in fide & dileccōe quibz noř tenemini injungim⁹ & mandam⁹ qđ omibz aliis p̃tmissis & excusacōe quacunq; cessante in p̃pria psona ṽra d̃cis die & loco psonaliť inľsitis consiliū ṽrm cum cēis p̃latis & Magnatibz sup d̃cis negociis impensuri p̃ut p nos ad tunc eritis oñati Et hoc sicut nos & honorem ñrm ac expedicōem negotioř hujusmodi diligitis nullatenus omittatis. T. apud Kylkenny vij (xij ?) die Aprit

p iřm Regem.

Consimilia b̃ria diriguntʳ subscriptis mutať mutand̃ sub ead̃ data videlť

Archiepō Casselen

Epō Mid

Epō Ossorieñ

Jacobo Butiller Comiti Dormond

Geraldo Fitz Morice Comiti Dessemond

Geraldo Fitz Morice Comiti Kildař

R. Majori & Ballivis Civitatis Dublin salēm Quia quibusdam &c. usq; ordinavim⁹ et sic voř in fide & ligancia quibz noř tenemini injungim⁹ & mandam⁹ qđ duos Cives magis idoneos sufficientes & discreciores d̃ce Civitatis coram noř ad d̃cm Consiliū venire fať Ita qđ ibidem ad diem p̃d̃cm sine difficultate & excusacōe aliquali ad informand̃ nos sup hiis que eis ibidem Et hoc sub piculo incumbenti & sicut noř inde respondere voluřitis nullatenus omittatis T. ut sup⁹

p iřm Regem.

Consilia b̃ria diriguntʳ subscript̃ sub ead̃ data videlť.

Majori Senescallo & ballivis ville de Droghda

Supiori & p̃posito civitatis Kilkenny

Majori & ballivis civitatis Lymeř

Majori & ballivis civitatis Waterford

[Same Roll, dorso.]

R. Senescallo Liġtatis Miġ & Viċ Croċ iġm salġm Quia ut
sup^a in bře Viċ mutaġ mutandġ

Consilia bria dirigunt^r Senescallġ & Viċ Croċ subscriptġ videtġ

Senescallo liġtatis Ultoġ & Viċ Croċ iġm

Senescallo liġtatis Kilkenġ & Viċ Croċ iġm.

Senescallo liġtatis Weyś & Viċ Croċ iġm

Senescallo liġtatis Typaġ & Viċ Croċ iġm

Senescallo liġtatis Kery & Viċ Croċ iġm

R. Majori & Ballivis Civitatis sue Dublin salġm Quia &c.
ut sup^a usq^q ibi ordinavim⁹ & tunc sic voġ mandam⁹ firmiġ
injungentes qđ de cōi assensu cōitatis Civitaġ eligi
faċ duos de pbioribz discreciolibz & sufficienciolibz Civibz
ejusdē Civitatis &c. ut sup^a mutaġ mutandġ sub
ead T. & daġ.

Cōsilia bria dirigunt^r Majoribz supioribz ppoiġ & ballis
subscriptġ videtġ

Majori & ballis civitaġ Watford

Majori & ballis civitaġ Cork

Majori & ballis civitaġ Lymeġ

Majori Senescall & ballis ville de Droghex ut^aq^q pte aque

Supiori & ballis ville de Kylkeny

Supiori & ballis ville de Rosse

Supiori & ballis ville de Weyś

Supiori & ball ville de Yoghill

Prepositġ & ball vill de Kynsale

Prepositġ & ballis ville de Galvy

Prepositġ & ballis ville de Athnery.

[Primate's Registry, Armagh.]

In the ancient Registry of Armagh is an address to King
Henry the Fifth, after the departure of his son Thomas out of
Ireland, from a Great Council assembled at Naas. This ad-
dress was written between the years 1414 and 1419, and to it
are attached the following, amongst other signatures:—

“ Gerald Comit de Kyldare

“ David Wogan Chevalier

- “ Thomas Flemyng Chevalier
- “ Christopher de Preston Chevalier
- “ John Darcy
- “ Christopher Holywod
- “ Xpofre Plunket,” &c.

[Original, Chapter-House, Westminster.]

To the King our Soʋayne Leige Lord.

Moost excellent Cristen Kyng and our moost redoubted Soʋayne leige Lord in the humblest wise that eny subyetts kan or may We recomaund us unto your moost noble g^{ce} Please it the same that our right gode Lord Gerald Erle of Kyldar your Depute Lieuten^{ant} of this your land of Irland hath shewed unto us your g^{acious} lres dated at your Manor of Grenewich the 28th day of July last passed whereby we have well understande your g^{acious} mynd in the same that ye wold have our said gode Lord to your noble p^{rsense} to thentent that he myght knowe thereby your g^{acious} mynd & that your Highnes myght have plen^ar cōicacion w^t hym in all such things as myght conc^{erne} the wele of this your said land and for the reducyng thereof and your subyetts of the same to a gode and laweful ordre and obeis^{ance} to the pleas^{ure} of God and the wele and p^{rofit} of your said subyetts and land as in your said lre more amplier it doth appere. Gracious Lord and it like your Highness we understand that he is bounden and sworn to be your trewe and faithfull subyet and leigeman as straitly and as sure as e^{ver} was eny subyet to his Prince the which othe and assurance our said gode Lord hath wele and truly kept and observed contynuelly to this tyme & undoubted will kepe during his lyve and ne^{ver} will degresse from the said othe and assurance. And g^{acious} Lord forasmoche as we understand the great daungers and emynent piles that shold fall yif he shold depart owt of this your land as well by your Irishe Enemys as otherwise for when our said gode Lord was seke whereof we cōtified your Highness but late, it was playnly and openly reported that our said good Lord was in grete jopdy of his lyve by reason wherof di^{verse} of the myghtiest of your Irish Enemys confedered togedir

ymagined and noysed a division betwene them of your landes in this parties yif God had don the will of our said gode Lorde, and in his said sekenes ther wer diſse of your subjets robbed spoyled and taken prison's and meny grete hurts done, and by the oothes that we have don to your Highnes this is true withoute feynyng Wherfor we in our moost humble and obeysaunt man^r beseche your excellent g^{ra}ce to be his gode & g^{ra}cious Lord and to have hym in your moost tendre favor and that he may have your g^{ra}cious licence at this tyme to abide at home for the defense & saufgard of us and others your feithfull subjets for diſse & meny urgent causes and greate daungers which we knowe right well shold fall in his absence yif he shold departe, and g^{ra}cious lord we besech your Highnes that what soever accusements be made unto your g^{ra}ce on our said Lord that when be no credence takyn thereto tyll his resonable excuses be had in the same Moost excellent Cristen Kyng and our moost redoubted soſayne leige Lord the Blessed Trinitie graunte you meny prospouse yeres to reigne upon us with victory of your enemys. Yoven at your cittie of Dublin of Divelyn in playne Parlement undre the oone part of your grete seall of this your said land the 4th day of Juny.

p. Walterus Dublin

Armacanū manu propria

Johes Mideñ

Johes Abbas S^{ci} Thome Martiris

Walterus Abbas dom^o S^{ce} Marie Virginis.

Johes Abbas Mellefont

Henri^o Abbas Dom^o B^e Marie de Valle Salutis.

Nicli^{us} Prior de Conall

Robart Preston Vicount of Gormāstoū

James Flemyng Baron of Slañ

Richard Nugent Baron of Delvyn

Edmūd Plūket Lord of Kyllene

Nycolas de S^{co} Laurence Lord of Howthe

Cristoferus Barnewall Dñs de Trymletetyston

John Plūket Lord of Dunsany.

By your true and faithfull subjets the Lords S^puels and

Tempeles and your Counsellors of your land of Irland in playne plement ther assembled.

[Chancery Roll, Dublin 9 H. 7.]

“ Memorandum that the 12 day of Septembr the 9 yere of the reigne of our Soʒayne Lord King Henry the 7th at Trym within the land of Irland before the right noble Lord Sr. Robt Preston Deputie Lieuteñnt of Irland the Lord Chaunceler of the same the Right Reʒend Fadirs in God the Bisshop of Mith the Bisshop of Kyldar the Right noble Lord Gerald Erle of Kyldare the Baron of Slane the Baron of Delvyn the Lord of Kyllene the Lord of Howth the Lord of Trymlestou the Lord of Donsany Henry Wyot and Thomas Garthe the Kyngs Coñmissioners, and othre the Kyngs Counsell of this land, for the uniʒsal weel of this land have ordeigned, established & enacted that eʒry Lord and Gentleman the Kyngs subjecte of this said land forthwith put into the hands of the said Deputie their sufficient pleggs sauʒly to be kept in the Kynges Castelles of Dublin and Trym ; and őr that eʒy of the seid Lords and Gentilmen be bound by recognizaunce before the Kyng in his Chauncery in soch sufficient sommōs as in the said recognisaunĉ shall appere that the said Lords & Gentilmen and eʒy of thaym shall truly kepe & observe theise articles ensuyng for them their ʒvñts & adherents as far as they lawfully maye.

Furst that pclamacōns be made that all and eʒy of the Kyngs subjets ʒsent their billis of compleynt to the said Depute of all robberies murdrez and extorsions don to them and eʒy of them from the fest of Seynt Jamys last past Wherupon the said Depute to send for eʒy psone so compleyned uppon to appere before hym to answere to the said complaynts and eʒy of them. And the same compleynt duely ʒved forthwith to make satisfaccion to the said complayñnt & to eʒy of them or ellis their bodies that so offend to remayne in ward till the ptie be satisfied.

Item if it fortune that eny of the said psonys so compleyned uppon do make default of his apparaunce before the Lord

Depute withoute a lawfull impediment that then they and eȳy of thaym that so offende which have put yn no pleggs nor is bounde as is aforsaid be pclaimed and takyn for the Kyngs rebbell & traytor and all thair supporters and maynteners from that tyme forthward.

Item &c.

From the reign of Edward the First to that of Henry the Seventh there will be found on the rolls various Fines or Amercements imposed on Peers who had not attended Parliament pursuant to the Writs issued for that purpose: the following list will furnish the names of many of the Peers thus amerced.

Edward the First	I. Bishop of Clonfert. Bermingham of Athenry &c.
Edward the Second	Bishop of Ferns. Prior of Wotheny. Prior of Athassel. George de Rupe &c.
Edward the Third	Bishops of Emly, Down, Ossory, Ard-fert, Cork and Limerick. Abbots of Jerpoint, Ballaglas, Albo Tractu, Mary's Abbey. De Rupeforti, Maurice fitz Nicholas, Cusack, Vernoil, Galtrym, Barry, Brun, la Freigne, Fitz Richard, Roche, Power, De Burgo, Thomas fitz John, De Clifford, Lenfaunt, Earl of Desmond &c.
Richard the Second.	Archbishops of Tuam and Cashell. Bishops of Emly, Elphin, Killala, Ross, Down, Ardfert and Limerick. De Burgo, Cusack, Bermingham of Athenry, Dexcester, Barry, Freigne, Fitz John.
Henry the Fifth	Archbishop of Cashell, Bishop of Limerick, &c.
Henry the Sixth	Bishop of Ferns, &c.
Henry the Seventh	Abbots of Dunbrody, Tynternan, &c. Christopher Fleming Baron of Slane,

Richard Nugent Baron of Delvin,
Edus Plunket Lord of Kyllene,
John Plunket Lord of Dunsany.

[Original, State Paper Office, London.]

After our moste humble and bounden dueties, yt may please yo^r most excellent Majestie to be advertized that your Highnes Parliament here began Crastino Trinitatis and the Tuesdaye nexte following resortid to the same Therles of Ormonde & Desmonde and with them the Lorde Barre the Lorde Roche the Lorde Fitz Moris and hither came also the Lord of Bermyngham of Athenry in Conaght, which Lordes have not been here of many yeres before, and the Thursday being Corpus Xpi day, after a solempne masse of the holy Goste, resorted to the Parliament Chamber, where the Commons presented to us their Speaker oon Sir Thomas Cusake who made a right goode proposition in lawde & prayse of youre Majesty most worthely deserved, and also declaryd what benefyt came of obedyence to Prynces and observinge of Lawes, which after being answered by your Graces Chauncelor in Englishe, and by therle of Ormond declaryd in Yrish, mooche contented the said Lords & Commons. And the Fryday being ther again assembled the Byll whereby yo^r Majesty shulde be made Kynge of this Realme was redde & declaryd to the said Lordes, who most willingly with all the reste of the Lordes Spuall and Temporall consentyd to the same, and after iij tymes red with lyke consent yt was sent to the lower Howsse, where yt likewise passed wth no less joy and gladness. We sende to your Majestie here ynclosed the names of all such Lordes bothe English & Yrishe as wer at the same and gave their liberall consents thereunto. Your Majesties servaunts Donogh O'Bryen & O'Bryen's Attornies appeared at this Parliament & willingly gave ther consents to the said Acte, but as for Oneyle we cannot perceyve that ever he will come to any honest conformyte, but judge him to be the only gall & poyson of this your Realm.

Over this it may please y^r Majestie to be advertized that Orayly being here at your Graces Parliament & wearing thaparel which your Highness sent unto him of your Graces gifte

made humble suite unto us to be petyconers for hym unto your Majesty that he mought have & hold hys lands upon your Highness to hym and to his heires for ever, wherefore your Grace so contented, bycause he ys a man of greate power, we think it convenyent that he have the honor of a Viscount and to be callyd the Vicount of the Cavan, which ys the chiefe towne in his county.

And thus we praye Allmightie God long to contynue your excellent Majestie in most p̄sperous helthe from your Highnes Cytie of Dublin the 28th of June

Your Highnes most humble Servants & Subjects

Anthony Sentleġ John Alen James Orm̄d & Oss: J. of D.*

George Dublin Edmond of Cashel

J. Rawson Vicec̄

Edward Miden.

Edmund

Cristopherus Tuā

S^r C. Lorde of Howthe

Jenico Vicunt of G.

Gerald Aylmer Justice

J. F. B. of Slane

James Bathe Baron

P. B. Lord of T.†

Thomas Houth Justice

John Lorde of Kyllen

Willm Brabazon

Thomas Walsh

John Wynne

Willm Cavendyss

The names of them that were p̄nt att the pliamēt in Ireland June 1541 :

Dñs Deputatus loco Regis

Dñs Canč

Dñs Theš

Georgius Archiep̄us Armacañ

Alexander Ep̄us Fernēñ

Georgius Archiep̄us Dublin

Nichūs Ep̄us Waterfortēñ

Edmondus Archiep̄us Cassellen

Dominicus Ep̄us Corcageñ

Cristoferus Archiep̄us Tuameñ

Ep̄us Lymericēñ

Edwardus Ep̄us Mideñ

Ep̄us Artferteñ

Wiffus Ep̄us Dareñ

Ep̄us Laoneñ

Matheus Ep̄us Leighlineñ

Ep̄us Tymolaneñ

Milo Ep̄us Ossorieñ

Ep̄us Elphineñ

* The letters "J. of D." appear to be the signature of James Earl of Desmond who is returned amongst the Peers present at this Parliament : they are written on a line with the signature of the Earl of Ormond, perhaps from a wish not to yield precedency to that nobleman.

† This is the signature of — Barnewall Lord Baron of Trimblestowne.

Ẽpus Duneñ	Dñs Maricius Dñs de Kery de
Ẽpus Aladeñ	stirpe Rẽmondi de la Grose
Ẽpus Duanēñ	Dñs Roche
Ẽpus Clonferteñ	Dñs Bermynghā de Athenry
Ẽpus Rosseñ	Dñs Baro de Slane
Ẽpus Coraneñ	Dñs Baro de Delvyn
Ẽpus Acadeñ	Dñs de Kyllyne
Jacobus Butler Comes Or-	Dñs de Dunsane
monie & Ossorie	Dñs de Howthe
Jacobus Desmonde Comes Des-	Dñs de Trymlettiston
monie	Dñs de Power
Dñs Barry Viç Barry	Dñs Baro de Dunboyne
Viç de Gormanston	Dñs Baro de Upper Ossorie
Viç de Clontarfe	Dñs Baro de Lowthe
Viç de Baltinglasse	Dñs Baro de Carbrrie

Procuratores Dñi O'Brene	} Isti nondum sunt de pliamento.
Willm̃s de Burgo sue naç	
Capitañ	
Donat O Brene	
Carolus filius Arturi Kava-	
nagh	
Dñs Orayly	
Kedagh O More	
Pheylym Roo	

[Original, Rolls Office, Chancery, Dublin.]

Note.—Detached portions of the two following documents were lately offered as evidence in the House of Lords, and on each occasion the original record from which such extracts had been made was cited as a “Pawn of Parliam^t.” That those documents are not pawns of Parliament must be evident on comparing them with the regular series of pawns preserved from the year 1530 in the Petty Bag Office, Chancery Lane, London, and nothing but the imperfect shape in which the extracts were handed in, can account for so extraordinary a misnomer having escaped their Lordships’ detection. For those, however, who have not had an opportunity of examining the series in the Petty Bag Office, it

may be necessary to state, that formerly when the King was about summoning a parliament, his mandate for that purpose issued to the Lord Chancellor, who thereupon directed a warrant to the Master of the Rolls, as principal Clerk of the Petty Bag Office, *requiring him forthwith to prepare* for the Great Seal Writs of Summons for the Lords Temporal, the Judges, &c. to appear at that Parliament next to be holden on the day therein mentioned, together with Writs of Election of the several Knights, Citizens, Burgesses, &c. directed to such persons as were usual in such cases, &c. Accordingly upon receipt of the Lord Chancellor's warrant, the Clerk of the Petty Bag, by the assistance of former precedents of writs, prepared a schedule of the writs to be issued, which schedule they kept fairly engrossed in parchment as a record in their office, and this record was then entitled the Parliament Pawn. Now, as from those facts it is evident, that the record was made up before the Peers could take their place, or Parliament had assembled, so it is held in law that a parliamentary pawn, though admitted as proof that a writ of summons had issued to any peer therein named, will not afford evidence of a sitting under such writ. Let us look, however, at the two following instruments, which have been so absurdly termed "Pawns:" neither of them contains the Privy Council nor the Assistants of the House, as all pawns of Parliament do; nor have they any of those Writs Exemplar Consimilar, or otherwise, which are invariably recited in every pawn of Parliament during the last three hundred and ninety eight years; but they both contain the names of the Commons elected and returned; and as pawns of Parliament, from their nature and intent, do not or could not contain such names, this circumstance, in itself, shews the two following to be documents of another description. The heading of the first declares, that it contains "The names of the Lords "Spiritual and Temporal and COMMONS in a certain Parliament of the Lady the Queen, summoned and HELD at "Dublin on Friday next after the Feast of Saint Hilary, to "wit, on the 11th of January, in the second year of the "reign of Queen Elizabeth," &c.; and in fact, the form,

language, and contents of both, prove that they were prepared after the Parliament had assembled, and consequently now afford evidence of sittings for the peers therein named. The ancient proofs of sitting for the Feudal Peerage of Ireland are now so extremely few, that the above observations made with a view to shew the real nature and legal effect of those two records were deemed indispensable.

“ Nomina Dñoꝝ Sꝑualiū & Tempaliū ac Comūñ in quod Parlamento Dñe Regine apud Dublin die Veneris p̄x ante festū S̄ci Hillaĩ v̄z xiº die Januarii anno regni Regine Elizabeth s̄cdo coram charissimo consanguineo & consiliario ipius Dñe Regine Thoma Comite Sussex Ordinis de Garter M̄t Capitaneo om̄n generoꝝ Pencionaĩ suoꝝ ad arma Capitali Justiç om̄n Forestaꝝ Parcaꝝ et Chaceaꝝ suaꝝ citra Trentam ac Deputato suo Regni sui Hiðnie suñonitoꝝ & tenĩ videlicet:—

Dñi Sꝑuales.

Hugo Dublin Archieꝑus Hiðnieq, P̄nas Dñs Canç Hiðnie

Rollandus Casseliẽ Archieꝑus

Xpoferus Tuameñ Archieꝑus

Willus Mideñ Eꝑus

Patricius Waterfordeñ & Lismoreñ Eꝑus

Rogerus Corcageñ & Cloneñ Eꝑus

Alexander Ferneñ Eꝑus

Thomas Dareñ Eꝑus

Thomas Leighlineñ Eꝑus

Joñes Ossorieñ Eꝑus

. Imolaceñ Eꝑus

Hugo Lymiceñ Eꝑus

Rollandus Clonferteñ & Elphineñ Eꝑus

Eugenius Duneñ Eꝑus

Eꝑus Rosseñ

Eꝑus Laoneñ

Eꝑus Coraneñ

Eꝑus Aladeneñ

Eꝑus Artferteñ

Eꝑus Ardacadeñ

*Writs of Military and***Dñi Temporales**

**Thomas Butler Miles Comes Ormond & Ossorie Dñs The-
saurarius Hiðnie**

Geraldus Comes Kildař

Geraldus Comes Dessmoñ

Connacius Comes Tomoñ

Ričus Comes de Clanrickarde

Jacobus le Barry Dñs de Buttevante

Mauricius Roche Dñs de Fermoy

. Breninghame Dñs de Athenry

. Curcy Dñs de Kynsale

Jenico Pšton Vicecomes de Gormanston

Rollandus Eustace Vič de Baltinglas

Ričus Butler Miles Vič de Mountgaret

Ričus Nugent Miles Baro de Delvyn

Jacobus Flem yng Miles Baro de Slane

Xpoferus Plunket Dñs de Kyllen

Xpoferus de St. Laurence Dñs de Howthe

Patricius Barnewall Miles Dñs de Trimletston

**Thomas fitz Morishe Baro de Lacknsnaway vulgariř voč Baro
de Keř**

Xpoferus Plunket Dñs de Dunsany

Eðus Butler Baro de Dunboyne

Thomas Plunket Baro de Louthe

Joñes Poer Dñs de Curraghmore

Barnabas Fitz Patrick Baro de Upper Ossory.

**Vič Dublin Milites elči iřm Thomas Fitz Wiłms de Holme-
pat^k & Patř Finglas**

**Vič Mið Milites elči iřm Xpoferus Cheř Miles & Patrič
Barnwall de Stack armiğ**

**Vič Westmið Milites elči iřm Georgius Stanley Miles &
Thomas Nugent Miles**

**Vič Louth Milites elči iřm Ničius Taf de Ballibragan &
Edwardus Dowdal de Glaspistel**

**Vič Kildař Milites elči iřm Ničius Eustace de Cradockston
& Jacobus Flattsbury de Robinston**

Vič Catherlagh Milites elči iſm Wiſſus Fitz Wiſſms Miles
& Edw' Butler geñ
Vič Kilkeñ Milites elči iſm Nicſus White & Walſus
Vič Waterford Milites elči iſm Thomas Power de
& Petrus Aylwarde de Faithlike
Vič Corč Milites elči iſm
Vič Keř Milites elči iſm
Vič Lymerič Milites elči iſm
Vič Connacie Milites elči iſm
Vič Clař Milites elči iſm
Vič Tippař Milites elči iſm Patricius Sherloke & Oliver
Grace
Vič Wexford Milites elči iſm Wiſſus Hore de Harpſton &
Ričus Synnot de Ballybrenan.
Vič Antrim Milites elči iſm.
Vič Arde Milites elči iſm
Vič Downes Milites elči iſm
Vič de le Kyngis Countie
Vič de le Queenis Countie
Major & vič coñ civitatis Dublin Civès elči iſm, Jacobus
Stanyhurst Recordator Civitatis pđ & Roſtus Golding
Major & balli civitatis Waterford Cives elči iſm Maurič
Wise & Petrus Stronge
Major & balli civitatis Cork Cives elči iſm Joñes Miaghe &
Stephañ Coppinger de eađ geñſoſ
Major & balli civitatis Lymerič Cives elči iſm Oliverus
Fannyng & Edwardus Artur
Major & vič viſt & coñ de Drogheda Miliř elči iſm Jo-
hannes Weston & Roſtus Burnell
Major & balli viſt de Gallwy Burgeñ elči iſm Jonoke Lynce
& Petrus Lynce
Major & balli viſt de Youghall Burgeñ elči iſm Joñes
Walsche & Joñes Portyngall
Major viſt de Cragfergus Burgeñ elči iſm Jacobus Wing-
field & Humfred Waren
Supior & ppoř ville de Kilkenñ Burgeñ elči iſm Roſtus
Shethe & Walſus Archer

Supior & þpōiſ ville de Kinsale Burgeñ elči iþm Joñes Alen
 Miles & Franciscus Agard Armiger
 Supior & balli viſt de Wexford Burgeñ elči iþm Joñes Has-
 sane & Ričſus Talbot
 Supior & balli viſt de Rosse Burgeñ elči iþm Nichus Heron
 & Wiſtus Dorm burġ
 Dundalk Burgeñ elči iþm Xpoforus
 More & Patrič Stanley de eađ
 Supior Carlingford Burgeñ elči iþm Henř
 Radclief Miſ & Johannes Neile
 Supior Clonmell Burgeñ elči iþm Joñes . . .
 White
 Supior Killmallock Burgeñ elči iþm
 Supior Burgeñ elči iþm Ničſus Hacket &
 Theobald Nasshe
 Supior Burgeñ elči iþm Franciscus Cosby &
 Henricus Cowly
 Supior Burgeñ elči iþm Andreas Browne &
 Thō Cusacke Miles
 Supior Burgeñ elči iþm Henř Draicot &
 Joñes
 Supior viſt de Burgeñ elči iþm Joñes Davells
 Supior viſt de Burgeñ elči iþm Thomas Shiele & . . .
 Supior viſt de Burgeñ elči iþm Joñes Pſker Armig
 &
 Supior viſt de Ath elči iþm Michael Moore . . .
 Supior viſt de Naſ elči iþm Patricius
 Supior viſt de Ath
 Pſpositus ville de elči iþm Barth'm
 Pſpositi ville de elči iþm Matheus
 Pſpositi sive Sup de Dungarvan Burgeñ elči iþm
 Henř Geafford & Joñes
 de

27 Eliz.

The Lordes Sþuall & Tempall Counties Cytties & Borough
 Towns as are aunswerable to the plyament in this realme of
 Irland and souche as weare somoned unto the plyament

holden before the right honorable Sir John Perrot Knyght
lord deputie gen^{all} of this relme of Ireland xxvj^o die Aprilis
anno regni regine n^{re} Elizabeth vicessimo septimo.

S^puall Lordes

The Prymate of Armaghe
The Archbusshopp of Dublin
The Archbusshopp of Casshell & Imoly
Tharchbusshopp of Tome
The Busshopp of Mieth & Clonvicknoysh
The Busshopp of Kildare
The Busshopp of Ossory
The Busshopp of Fernes
The Busshopp of Waterford & Lysmore
The Busshopp of Corck and Clone
The Busshopp of Lymerick
The Busshopp of Clonfert
The Busshopp of Downe & Conleñ
The Busshopp of Elphyne
The Busshopp of Duaneñ
The Busshopp of Leighleñ
The Busshopp of Rosse carbery
The Busshopp of Killalowe
The Busshopp of Conareñ
The Busshopp of Aladeneñ
The Busshopp of Ardferteñ
The Busshopp of Ardagheñ
The Busshopp of Dromoreñ
The Busshop of Rapoteñ
The Busshopp of Cloghroneñ
The Busshopp of Cluaneñ

Temporal Lordes.

The Earle of Kildare
The Earle of Ormond & Ossory
The Earle of Tyreone
The Earle of Clanrickard
The Earle of Tomond
The Earle of Clancare
The Viscount Buttyvant

Writs of Military and

The Viscount of Fermoy
 The Viscount of Gormanston
 The Viscount of Mountgarrett
 The Lord Bermyngham of Athynry
 The Lord Coursy
 The Lord of Slane
 The Lord of Delvyne
 The Lord of Killen
 The Lord of Howth
 The Lord of Donsany
 The Lord of Trymleteston
 The Lord of Donboyne
 The Lord of Uppossory
 The Lord of Louth
 The Lord of Curraghmore
 The Lord of Donganyne
 The Lord of Inchecoyne
 The Lord Burck of Conell
 The Lord of Cahir.

Shires or Counties

The County of Dublin	Richard Netterville Henrie Burnell
The County of Mieth	Riċ Barwall & Jo. Nettervill
County of Kildare	Willm Sutton & Thomas Fitzmorice
County of Westmyth	Ed. Nugent de Disert & Ed. Nugent de Morton
County of Wexford	Matthew Fitzhenry Roċt Codd
County of Louth	Roger Gerlone & Will More
County of Catherlagh	Sir Henry Wallopp & Gal Fenton
County of Kilkenny	Gerä Blanchvile. Roċt Roth
County of Typpary	Ja. Butler. Red Everard.
County Crosie Typpary	Riċ Archbold. Ed. Prindergast
County of Waterford	Riċ Ailward & Ja. Sherloke.
County of Gorck	John Norris l' pſident & Will Cogan Jo. Fitz Edmond
County of Kerry	Jo. Fitzgerald. Thomas Springe
County of Lymeryck	Thomas Norris. Riċ Bourke
County of Clare	Sir Tir. Obrene & Boetius Glanchy

County of Downe	Sir Nicholas Bagnoll & Sir Hugh Maggenes Knight
County of Antrim	Ed. Berkly & Shan M'Brien
Kinges County	Georġ Bouchier Knt & Hē Waringe
Quenes County	Warham Sentleger Robt Harpoll
County of Longford	Faghuy O Ferroll & Wiltm O Ferroll
County of Galwey	Thō Le Strāge & Fraunċ Shane.
County of Maio	Thō Wiltms & Jno Browne.
County of Roscoman	Sir Riċ Byngham & Tho. Dillon.
County of Sligagh	Sir Valantyn Browne Jo. Crofton Jo. Marbury
County of Fernes	Tho. Masterson & Riċ Synnot
County of Wicklow	Edward Brabazon Sir Henry rington
County of Cavan	Phillipp O Reyly Edmond O Reyly
Cytties.	
Dublin	George Taylor. Nicholas Ball
Waterford	Sir Pa. Walsh. Nicholas Walshe
Corck	John Miagh. Tho Sharsfeld
Lymeryck	Tho Arthirr. Ste. White
Boroughe Townes.	
1 Drogheda	Jo Barnewall. Peł Nugent
2 Galway	Peter Lynch & Ja ^o Lynch
3 Knockfergus	. . . . .
4 Yoghill	Tho Copenger & Ja ^a Collen. Francis . .
5 Kilkenny	John Roth & Ellice Shee
6 Wexford	Pa. Furlong & Pa. Talbot
7 Rosse	Jas ^p Duff & Wiltm Bennet
8 Downe	
9 Kynsale	Ja. Galwey. Phi. Roche
10 Dondalk	Ric. Bellewe. Tho. Bath. John
11 Trym	Mo. Hamon. Th. Guire
12 Casshell	Denise Conwy. Pa. Kerny
13 Fetherd	. . . . . Nash & Da. Wale
14 Clonmell	Galfrid White & John Bray
15 Kilmallock	Jo. Verdon & Tho. Hurly
16 Thomaston	Wa. Sherloke. Robt Porter

17 Le Naas	James Sherboke & Walter Lewes
18 Enestyock	David Power & Robt Archdeacon
19 Kildare	John Wesly & Wilm Shergold
20 Molyngarr	Redmond Pettite & Richard Casy
21 Athynry	Wilt Brown . Ni. Lynch
22 Carlingford	Rice Aphugh . Ro. Neil
23 Novan	Tho. Wakely & Tho. Waringe
24 Athboy	Wilm Browne & Patrick Terrell
25 Kenles	Tho. Fleminge & Ni. Da
26 Athirdy	Ro. Barnewall & John Dowedall
27 Dengene Choyse	Thomas Trant &
28 Dongarvan	. . . . .
29 Callan	Gerald Rochford & Edward Branan
30 Phillippeton	Jo . . an & Edward Wiltms
31 Maryborough	. . . . .
32 Swerdes	. . . . .

Orders to be kept and observed in the Lower or Cöen howse of plyament :

1. First that evy Knyght Cyttizen and Burgesse in his ent . . . to the howse make his dutyfull & humble obeisance & after to take his place

2. That evy Knyght Cyttizen and Burges during the tyme of his aboad at the said howse be apparayled in his gowne having no armor nor weapon about hym

3. Iſm eche Knyght Cyttizen & burges in uttering his mynd to any bill to use & frame his speache after a quyet & curteous maner without any taunts or wordes tendyng to the reproche of any psons in this said howse assembled

4. Iſm as eche pson here assembled hath graunted unto hym free libtie of speche in declaryng his mynd & opynyon to eche matter pponed, so lykewise he is to speake but ones at evy reading of any bill

5. Iſm yf any offend or mysbehave hymself in this howse his punyshment ys to be considered of and assygned by the Speaker with thadvise & assent of the residue of the howse

6. Iſm that no Cyttizen Knyght or Burges of this howse absent or depte from the same ether for cause of sycknes or otherwise without notice given to the Speaker and lycence had & souch lycence to be recorded

7. Iſm any Knyght Cyttizen or Burges mynding to ſpeke to any bill moſt during the tyme of his ſaid ſpeche ſtand & remayne uncoſed.

8. Iſm no Knight Cyttizen or burges diſcloſe the ſecretes ether ſpeken or done in this ſaid howſe to any ſtranger not being of the ſame howſe under payne of ſouche punyſhment as by the ſpecker with thasſent of the residue of the howſe ſhall be lymyted.

9. Iſm yf during the tyme of plyament any of this howſe his ſervantes or goods be ſued areſted or vexed contrary to the auncient cuſtomes in ſouche caſes uſed, the Speaker ys upon informacon thereof to hym gyven to ſend the ſerjaunt at armes to ſouche Courte to declare the pſon ſo troubled to be of the plyament & therupon requyring the officers thereof to ſtay in further pceeding therin, whiche being dyſobeyed the pty or officer ſo doying ys by the auctie from the Speaker to be ſent for & to be impryſoned & receave punyſhment according the diſcrecyon of the howſe to be aſſigned & laid downe.

[Chancery Roll Dub. 1. J. 1.]

Jacobus Dei gratia Anglie Scotie Frauncie & Hiſnie Rex fidei defenſ et Olivero Dño Baroni de Lowth ſalutem Precipim⁹ tibi quod ſis coram Conſilio nro Regni nri Hiſnie apud Dublin nono die hujus inſtant̃ mēſis Aprilis ad tractand̃ conſulend̃ et concordand̃ ſup hiis que tibi tunc et iſm ventur̃ exponentur et declarabuntur. Teſte meipſo apud Dublin ſeptimo die Aprilis anno Regni nri Anglie Frauncie et Hiſnie primo, et anno Regni nri Scotie tricēſſimo ſexto Dño Baroni de Lowth de magno conſilo heñdo virtute cujusdam Actus parliament̃

Conſimilia Brevia direcť fueř aliis, tam Comitibz Baronibz qm̃ ceteris nobilibz et magnañ hujus Regni Hiſnie.

Memorand̃ that upon the foure and twentieth day of Marche one thouſand ſixe hundreth and two the famous and virtuous Princes Elizabeth by the grace of God of Englaunde Fraunce and Irelande Queene deſted this lyefe whereupon Sir Henry Davers knight was pſentlie ſent from the

courte and state of Englande into Irelande to declare and shewe to the then Lorde Deputye and State heere of her Highnes deputation owte of this lyefe: who landed in the haven of Dublin the fyfte day of Aprill one thousande six hundreth and thre then next followinge in the afternoone of the same daye.

And thereupon the right honourable Charles Lo: Mountioe knight of the most noble order of the Garter then Lo. Deputye of this realme of Irelande gave order forthwith the same daye, that James the sixt of that name King of Scotlande should presently be playmed Kinge of Englande Scotlande Fraunce and Irelande, which was lykewise done the same daye accordinge theeffect of a pclamation sent hither owte of Englande for that purpose: And did further give direction with consent of suche of the nobility and counsell as then were present unto the Right honorable Adam then Lo. Archebyschoppe of Dublin primate of Irelande and the Lorde Keeper of the great seale of the sead kingedome to direct writtes *de Consilio habendo* both to the Lords Spirituall and Temporall within this realme And also to the Privie Counsell that then had been within the said Realme. And in the same writtes willed them to appeare before the said Lord Keeper that then was the nyneth day of Aprill one thousand six hundreth and thre within the Castle of Dublin in the Counsell Chamber there, who appeared accordinglye the same day. And after longe and grave consultacon they did chose the said Right honourable Charles Lord Mountioy to be Lo. Justice and Chiefe Governor of this realme of Irelande untill the Kinges Maities further pleasure shoulde be knowen And willed tres pattents to be made unto him uppon the sayd office, which was done accordinglye and was solemplye sworne in the Castle of Dublin accordinge the accustomed manner. And so being sworne Lord Justice, his Lp: willed tres pattents to be made under the greateseale of this Realme to the Right honourable the late Lord Chauncellor to be Lord keeper of the greateseale of this Realme untill suche tyme as the Kynges Hignes pleyasure weare further knowen, which was lykewise done in manner and forme aforesd.

Ad Dublin. C. S.	George Careye
H. Armachan	Richard Wingefeld
Je. Gormanston	Edmund Pelham
Tho. Midensis	Antho. St. Leger
Chr. Killene	Henrye Harington
Nichas Howth	Fra. Stafford
Chř Dunsany	Geoffrey Fenton.
Rõ Trymbletston	

Jacobus Dei gratia Anglie, Scotie, Frauncie et Hiĉnie
Rex fidei defenſ etĉ predilecto et fideli Consiliař ĉro Charolo
Dño Mountioye pĉlari Ordinis ĉri Garterii Milĩ nup Deputař
in Regno ĉro Hiĉnie/ Cum p mortem pĉcharissimi excellen-
tissimi et piissimi principis Elizabethę Dei gratia Anglie,
Francie et Hiĉnie nup Regiñ Officium Deputati Genĩalis
Regni ĉri Hiĉnie pĉdicť jam vacaņ existit, ptextu cujus Dñi
spirituales et temporat et Consil ĉri dicti Regni Hiĉnie
eligerunt te esse Justiciař et Guĉnať dicti Regni ĉri Hiĉnie
durante beneplito ĉro juxta tenorem et effectũ Statuti in eo
casu editũ et pviso/ Sciatis igitur qđ nos de fidelitate et cir-
cumspecĉone tua plurimum confidentũ de ĉřa ĉra spĩali ac ex
certa scientia et mero motu ĉris de assensu pĉdicť Dñoꝝ spĩaliũ
& temporat ac Consilii ĉri ejusdem Regni ĉri pĉdicť ordina-
vimus ac p pntes constituim⁹ te pfať Charol Dñm Mountioye
Justiciař et Guĉnat ĉřm Regni ĉri Hiĉnie pĉdicť Habendũ
utendũ et gaudendũ offiĉ Justiciař et Guĉnať ĉri Regni ĉri
Hiĉnie pĉdicť durante beneplito ĉro cum consimilibz auc-
thoritať pĉminenĉ et dignitatibz ad quodlibť ppositum et
respectũ put tu pĉdicť Charolus Dñus Mountioy ultimũ De-
putatus dĉe Dñę Regine Regni ĉri Hiĉnie pĉdicť tempore
mortis sue virtute lraꝝ suaꝝ patenĉ tibi de officio Deputař
sui Regni pĉdicť sub magno sigillo Regni ĉri Anglie concessũ
habuisti sive gavisus fuisti. In cujus rei testimoniũ has lras
ĉras fieri fecim⁹ patentes. Teste meĩpo apud Dublin nono
die Aprilis anno Regni ĉri Anglie Francie et Hiĉnie primo
annoꝝ Regni ĉri Scotie tricesimo sexto &c.

S' LEGER.

[Original, Journal House of Commons, Parliamentary Record Office,
Dublin Castle.]

Note.—In May 1615, a Petition or Remonstrance from the House of Lords was laid before the Lord Deputy against some encroachments made by the Commons on their Lordships' privileges. This petition was afterwards sent to the Commons, on whose Journal it still remains; and from its language, and the matters therein complained of, there can be no question but that the Peers who signed it were present and sat in that session of Parliament. As the document is of some length, the commencing and concluding paragraphs are only now prefixed to the signatures.

To the Right honorable the l: Deputye.

Greivances w^{ch} the *L^{ds} Spirituall & Temporal* of the higher house doe desyre to be made knowne to the lord Deputie.

1. There was an unworthy aspersion by a member of the house of Co^mons cast upon y^e l^{ds} spirituall and temporall of the upper house. viz^t [That they had noe care of the Co^monwealth] wherein they have hitherto given their tps noe manner of satisfaction, but rather *have offered us a second wronge in appoyntinge of that member [whoe have thus abused them]* to affront *theyre Committees in a conference* betweene the two howses.

2. And a like iniurie was lately offered by another member of that house to the l^{ds} spirituall viz. [that they propounded theyr busines wth chidinge and scoldinge] wherein theyr tps have received noe satisfaction.

3. Where all hon^r is deryved from the Kinge and matters concerninge poynt of honor should pperly descend from the higher house to the house of Co^mons they assumed the same to themselves, as appeareth by the Act of Restitution of John Hedon to his blood, &c.

Theise and other like grievances [as matters of disrespect and tendinge to breede an utter neglect of their nobility and hono^rs in their severall places, the l^{ds} spirituall and tem-

porall of the upper house of Parliament doe wth all humilitie lay downe before yo^r t^p prayeing such a remedie, as in your noble consideration you shall thinke most meete.

Your t^{ps} humbly at co^mand,

THO. DUBLIN, Can^ç.

- | | |
|---|--------------------------------|
| 2. Ch ^r Armachanus | 15. R ^õ Dunensis |
| 3. Milerus Casseleim Archb ^p | 16. Tho. Kilmoriensis |
| 4. D. Thomond | 17. Jo. Dirriensis |
| 5. Gormanston | Tho. Dromoriensis |
| 6. Mountgarrett | 19. R. Athenrye |
| 7. D de Rupe and ferne, Viscounts | 20. Slane |
| 8. Geo. Mide ⁿ | 21. Delvin |
| 9. Tho. Dare ⁿ | 22. Killeene |
| 10. Waterford and Rosse | 23. R ^õ Trimletston |
| Tho. fernes & Leoghli ⁿ | James Dunboyne |
| 12. Jo. Ascoriensis | Math. Lowith |
| Ba ^ñ Lymerice ⁿ & Fene ^ñ | 26. Henry Brian |
| 14. A ⁿ Rapotensis | 27. Tho. Cahyr. |

[Original Journal, Parliamentary Record Office, Dublin Castle]

Note.—In the year 1634 commence the earliest Journals of the House of Lords in Ireland; and the following list of the Peers who were present on the 14th of July in that year is taken from those Journals. It appears also, that on the subsequent days the Baron of Slane and other Lords came in and took their seats. The names of the Peers who still sat as Feudal Barons, or who being advanced by patent to higher honours, still enjoyed Feudal Baronies, will be found printed in italics.

“ The names of the Lords Spirituall and Temporal at the Parliament holden at Dublin the 14th of July 1634 &c.

Lords Spiritual.

Lord Arch^bp of Armagh
 Lord Arch^bp of Dublin
 Lord A^bp of Cashell
 Lord A^bp of Tuam
 Lord B^p of Meath

Writs of Military and

Lord Bp̃ of Kildare
Lord Bp̃ of Ferns & Leighlin
Lord Bp̃ of Elphin
Lord Bp̃ of Down & Connor
Lord Bp̃ of Ossory & Kilkenny
Lord Bp̃ of Dromore
Lord Bp̃ of Waterford & Lismore
Lord Bp̃ of Cork Cloyne & Ross
Lord Bp̃ of Clogher
Lord Bp̃ of Limerick
Lord Bp̃ of Clonfert & Kilmacduagh
Lord Bp̃ of Raphoe
Lord Bp̃ of Ardfert & Aghadoe
Lord Bp̃ of Kilmore
Lord Bp̃ of Killala & Achonry
Lord Bp̃ of Kilfenora
Lord Bp̃ of Ardagh
Lord Bp̃ of Killaloe
Lord Bp̃ of Derry

Lords Temporal.

Lord Chancellor
 Visc' Loftus of Ely
Lord Treasurer
 Rich^d Earl of Cork
Earl of Kildare
Earl of Ormond & Ossory
Earl of Thomond
Earl of Clanrickard
Earl of Castlehaven
Earl of Antrim
Earl of Westmeath
Earl of Roscommon
Earl of Londonderry
E. of Desmond. infra etat̃
Earl of Meath
Earl of Barrymore
Earl of Carberry
Earl of Fingall

Earl of Downe
Viscount Gormanstown
Visc' Fermoy
Visc̃ Mountgarrett
Visc̃ Powerscourt
Visc̃ Grandison
Visc̃ Wilmot
Visc̃ of Valentia
Visc̃ Moore
Visc̃ Dillon. *infra etat̃*
Visc̃ Netterville
Visc̃ Montgomery
Visc̃ Claneboy
Visc̃ Beaumont
Visc̃ Magenis
Visc̃ Lecale
Visc̃ Chichester
Visc̃ Kilmurry
Visc̃ Sarsfield
Visc̃ Somerset
Visc̃ Killultagh
Visc̃ Burgh
Visc̃ Baltinglass
Visc̃ Castletown
Visc̃ Boyle. *infra etat̃*
Visc̃ Chaworth
Visc̃ Carlingford
Visc̃ Saville
Visc̃ Scuddamore
Visc̃ Cholmondley
Visc̃ Lumley
Visc̃ Strangford
Visc̃ Wenman
Visc̃ Corrine
Visc̃ Mounson
Visc̃ Ranelagh
Visc̃ Cartie
Visc̃ Mollineux

Visċ Fairfax
 Visċ Bourke
 Visċ of Ikerrin
 Visċ Fitzwilliam
 Visċ Clanmaleery
Lord Bermingham
Lord Courcy
Lord of Kerry
Lord of Howth
Lord of Dunsany
 Lord of Trimbleston
Lord of Dunboyne
 Lord of Upper Ossory
 Lord of Lowth
Lord of Curraghmore
 Lord of Inchiquin. infra etā
 Lord Bourke of Castleconnell
 Lord of Cahir
 Lord Hamilton
 Lord Mountry
 Lord Lambert
 Lord Bourke of Brittas
 Lord Castlestewart
 Lord Balfour
 Lord Folliot
 Lord Maynard
 Lord Gorges
 Lord Digby
 Lord Hervey
 Lord Fitzwilliam
 Lord Caulfield
 Lord Donore
 Lord Aungier Baron of Longford
 Lord Blayney
 Lord Esmond
 Lord Malone
 Lord Herbert
 Lord Baron of Baltimore

Lord Baron Brereton
Lord Colerain
Lord Sherard
Lord Boyle. *infra etat*
Lord Maguire
Lord Mountnorris.

[Chancery Roll, Dublin, 5 Jam. 2. part 1.]

Note.—The only writs of Parliamentary Summons creating Hereditary Peerages by express words, that have as yet been discovered in England or Ireland, are the three following, and that by which Henry the Sixth created Henry Bromflet Knight Baron de Vessy in the year 1449. It is worth observing, that although the other writs of James's Parliament, as well as the proceedings had therein, were by order withdrawn from the repository where they should have been preserved; yet the following three writs still remain duly enrolled on the Patent rolls; and there is also to be found additional evidence in the public records, that the titles of Barons Nugent and Fitton were duly recognized. From these and other circumstances it appears it was only during the excesses naturally flowing from an unexpected Revolution that those honours were afterwards prohibited and denied. Now, however, that we can reason on such subjects, it is right to state, that according to the laws and usages of Dignities and Parliaments in Ireland, and the powers and rights exercised by the Kings of England from time immemorial in that country, the legality of such a creation cannot be questioned.

“ Jacob^o ij^{da}. &c. dilecto & fidelissimo Ale^xo Fytton Militi salutem. Quia de advisamento & assensu Conciliario^r p quibusd arduis & urgentib^z negotiis nos statum & defensionem Regni n^{ri} Hi^bnie & Ecc^{le}ie Hi^bnie concernentib^z q^d Parliament n^{rm} apud Du^b vij^o die Maii proximo futuro teneri ordinavim^o et ibidem vobiscum ac cum Prelatis Magnatib^z & Procerib^z d^{ci} Regni n^{ri} colloquium habere & tradere vobis sub fide & ligeantia quibus nobis tenemini firmi^r injungendo mandam^o q^d consideratis dictorum negotio^r arduitate & peri-

culis imminentibus cessante excusatione quacunq; dictis die & loco psonaliter intersitis nobiscum ac cum Prelatis Magnatibz & Proceribz p̄d̄cis suprad̄cis negotiis tractaturi vestrumq; Consilium impensari & hoc sicut nos & honorem n̄rm ac salvationem & defensionem Regni & Ecclesie p̄d̄coꝝ expeditionemq; dictoꝝ negotioꝝ diligitis nullatenus omittatis. Volumus etiam vos & heredes v̄ros masculos de corpore v̄ro legittime exeuntes Barones Fytton de Gosnorth in Coñ Lymerick existere. Teste meip̄o ap̄d Dublin j̄o die April A° R' n̄ri v^{to}.

Consimiles L̄re Patent̄ (mutatis necessario mutandis) diriguntur Thōe Nugent ij̄o filio nuper Comitis Westmidie de essendo ad Parliamentum vij̄o die Maii sequente & pro creando eundem & heredes masculos de corpore suo Barones Nugent de Riverston in Coñ Westmid. Teste Jacobo apud Duḡ. iij̄o die Aprilis a° R'ni n̄ri v^{to}.

Consimiles L̄re (mutat̄ mutand̄) diriguntur Johi Bourke ij̄o filio W^{mi} nuper Comitis Clanricard de essendo &c. ut sup & p̄o creando eund & heredes masculos de corpe suo Barones Bourke de Bophin in Cō Galway. Teste Jacō apud Duḡ ij̄o die April a° R'ni n̄ri v^{to}.

THE END.



